Opinion of the European Committee of the Regions — Reform of the Common European Asylum System

(2017/C 185/12)

Rapporteur: Vicenzo BIANCO (IT/PES)

Mayor of Catania

Reference documents: Proposal for a Regulation of the European Parliament and of the Council 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)

COM(2016) 270 final

Proposal for a Regulation of the European Parliament and of the Council on the European Agency for Asylum and repealing Regulation (EU) No 439/2010

COM(2016) 271 final

Proposal for a Regulation of the European Parliament and of the Council on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 establishing the criteria and mechanism 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], for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes (recast)

COM(2016) 272 final

I. RECOMMENDATIONS FOR AMENDMENTS

Amendment 1

COM(2016) 270 final

Article 3(3) and 3(5)

Access to the procedure for examining an application for international protection

Text proposed by the Commission	CoR amendment
3. Before applying the criteria for determining a Member State responsible in accordance with Chapters III and IV, the first Member State in which the application for international protection was lodged shall:	3. Before applying the criteria for determining a Member State responsible in accordance with Chapters III and IV, the first Member State in which the application for international protection was lodged shall:

Text proposed by the Commission	CoR amendment
(a) examine whether the application for international protection is inadmissible pursuant to Article 33(2) letters b) and c) of Directive 2013/32/EU when a country which is not a Member State is considered as a first country of asylum or as a safe third country for the applicant; and	(a) examine whether the application for international protection is inadmissible pursuant to Article 33(2) letters b) and c) of Directive 2013/32/EU when a country which is not a Member State is considered as a first country of asylum or as a safe third country for the applicant; **this provision shall not apply where the average rate of acceptance of asylum applications for the applicant's country of origin exceeds 33,33 % at EU level;** and
(b) examine the application in accelerated procedure pursuant to Article 31(8) of Directive 2013/32/EU when the following grounds apply:	(b) examine the application in accelerated procedure pursuant to Article 31(8) of Directive 2013/32/EU when the following grounds apply:
(i) the applicant has the nationality of a third country, or he or she is a stateless person and was formerly habitually resident in that country, designated as a safe country of origin in the EU common list of safe countries of origin established under Regulation *[Proposal COM(2015) 452 of 9 September 2015];* or	(i) the applicant has the nationality of a third country, or he or she is a stateless person and was formerly habitually resident in that country, designated as a safe country of origin in the EU common list of safe countries of origin established under Regulation *[Proposal COM(2015) 452 of 9 September 2015];* or
(ii) the applicant may, for serious reasons, be considered a danger to the national security or public order of the Member State, or the applicant has been forcibly expelled for serious reasons of public security or public order under national law.	(ii) the applicant may, for serious reasons, be considered a danger to the national security or public order of the Member State, or the applicant has been forcibly expelled for serious reasons of public security or public order under national law.
4. […]	4. […]
5. The Member State which has examined an application for international protection, including in the cases referred to in paragraph 3, shall be responsible for examining any further representations or a subsequent application of that applicant in accordance with Article 40, 41 and 42 of Directive 2013/32/EU, irrespective of whether the applicant has left or was removed from the territories of the Member States.	5. The Member State which has examined an application for international protection, including in the cases referred to in paragraph 3, shall be responsible for examining any further representations or a subsequent application of that applicant in accordance with Article 40, 41 and 42 of Directive 2013/32/EU irrespective of whether the applicant has left or was removed from the territories of the Member States.

Reason

A fair balance needs to be struck between the need for a speedy, efficient system and the need to protect fundamental rights. The introduction of preliminary admissibility screening, which helps meet the first need should not therefore lead to the denial of the right to an effective examination of the merits of applications made by those who come from countries for which there is, nonetheless, a significant reception rate. It should be pointed out here that the majority of children, including unaccompanied minors, come from countries for which there is a reception rate of around 50 %.

Amendment 2

COM(2016) 270 final

Article 7(1)

Personal Interview

Text proposed by the Commission	CoR amendment
1. In order to facilitate the process of determining the Member State responsible, the determining Member State shall conduct a personal interview with the applicant, unless the applicant has absconded or the information provided by the applicant pursuant to Article 4(2) is sufficient for determining the Member State responsible. The interview shall also allow the proper understanding of the information supplied to the applicant in accordance with article 6.	1. In order to facilitate the process of determining the Member State responsible, the determining Member State shall conduct a personal interview with the applicant, unless the applicant has absconded **without a valid and substantiated reason** or the information provided by the applicant pursuant to Article 4(2) is sufficient for determining the Member State responsible. The interview shall also allow the proper understanding of the information supplied to the applicant in accordance with article 6.

Reason

Given the severity of the consequences of absconding provided for in the Commission's proposal (no interview, and accelerated examination procedure), the applicant should have the opportunity to put forward a substantiated reason and thus recover the full extent of their rights.

Amendment 3

COM(2016) 270 final

Article 7

Personal Interview

Text proposed by the Commission	CoR amendment
	Add after paragraph 5: **6. During the interview provided for by this Article, the applicant must be informed of the right to request to be received in a given Member State (and to indicate alternatives, up to a maximum of two). Specific questions must then be asked to ascertain language skills, previous stays, contacts with communities of the same country or region of origin that are legally resident, professional skills and any other particularly relevant factor that is useful for and serves to facilitate social inclusion, even temporarily.**

Reason

In order to discourage secondary movements, it would be more fruitful to ascertain from the outset the applicant's preference for one or more countries (up to a maximum of three), as well as the knowledge, contacts and skills that could facilitate their integration, even on a temporary basis, for the benefit of the social equilibrium of the host country.

Amendment 4

COM(2016) 270 final

Article 8(2)

Guarantees for minors

Text proposed by the Commission	CoR amendment
Each Member State **where an unaccompanied minor is obliged to be present** shall ensure that a representative represents and/or assists the unaccompanied minor with respect to the relevant procedures provided for in this regulation.	Each Member State shall ensure that a representative represents and/or assists the unaccompanied minor with respect to the relevant procedures provided for in this regulation.

Reason

Given their vulnerability, assistance and representation should always be guaranteed to children, even where, for whatever reason, they are not present in the Member State responsible for examining their application.

Amendment 5

COM(2016) 270 final

Article 10

Text proposed by the Commission	CoR amendment
1. Where the applicant is an unaccompanied minor, only the criteria set out in this article shall apply, in the order in which they are set out in paragraphs 2 to 5.	1. Where the applicant is an unaccompanied minor, only the criteria set out in this article shall apply, in the order in which they are set out in paragraphs 2 to 5.
2. The Member State responsible shall be that where a family member of the unaccompanied minor is legally present, provided that it is in the best interests of the minor. Where the applicant is a married minor whose spouse is not legally present on the territory of the Member States, the Member State responsible shall be the Member State where the father, mother or other adult responsible for the minor, whether by law or by the practice of that Member State, or sibling is legally present.	2. The Member State responsible shall be that where a family member of the unaccompanied minor is legally present, provided that it is in the best interests of the minor. Where the applicant is a married minor whose spouse is not legally present on the territory of the Member States, the Member State responsible shall be the Member State where the father, mother or other adult responsible for the minor, whether by law or by the practice of that Member State, or sibling is legally present.
3. Where the applicant has a relative who is legally present in another Member State and where it is established, based on an individual examination, that the relative can take care of him or her, that Member State shall unite the minor with his or her relative and shall be the Member State responsible, provided that it is in the best interests of the minor.	3. Where the applicant has a relative who is legally present in another Member State and where it is established, based on an individual examination, that the relative can take care of him or her, that Member State shall unite the minor with his or her relative and shall be the Member State responsible, provided that it is in the best interests of the minor.

Text proposed by the Commission	CoR amendment
4. Where family members or relatives as referred to in paragraphs 2 and 3, stay in more than one Member State, the Member State responsible shall be decided on the basis of what is in the best interests of the unaccompanied minor.	4. Where family members or relatives as referred to in paragraphs 2 and 3, stay in more than one Member State, the Member State responsible shall be decided on the basis of what is in the best interests of the unaccompanied minor.
5. In the absence of a family member or a relative as referred to in paragraphs 2 and 3, the Member State responsible shall be that where the unaccompanied minor **first has lodged his or her application for international protection**, unless it is demonstrated that this is not in the best interests of the minor.	5. In the absence of a family member or a relative as referred to in paragraphs 2 and 3, the Member State responsible shall be that where the unaccompanied minor **is currently staying**, unless it is demonstrated that this is not in the best interests of the minor.
6. The Commission is empowered to adopt delegated acts in accordance with Article 57 concerning the identification of family members or relatives of the unaccompanied minor; the criteria for establishing the existence of proven family links; the criteria for assessing the capacity of a relative to take care of the unaccompanied minor, including where family members, siblings or relatives of the unaccompanied minor stay in more than one Member State. In exercising its powers to adopt delegated acts, the Commission shall not exceed the scope of the best interests of the child as provided for under Article 8(3).	6. The Commission is empowered to adopt delegated acts in accordance with Article 57 concerning the identification of family members or relatives of the unaccompanied minor; the criteria for establishing the existence of proven family links; the criteria for assessing the capacity of a relative to take care of the unaccompanied minor, including where family members, siblings or relatives of the unaccompanied minor stay in more than one Member State. In exercising its powers to adopt delegated acts, the Commission shall not exceed the scope of the best interests of the child as provided for under Article 8(3).
7. The Commission shall, by means of implementing acts, establish uniform conditions for the consultation and the exchange of information between Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).	7. The Commission shall, by means of implementing acts, establish uniform conditions for the consultation and the exchange of information between Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

Reason

This amendment is in line with the rulings of the European Court of Justice (judgment M.A and others, Case C-648/11) and aims to guarantee that the procedure for determining the Member State responsible is not needlessly prolonged.

Amendment 6

COM(2016) 270 final

Add a new article after Article 14

Preferences, skills and relevant connections

Text proposed by the Commission	CoR amendment
	1. Where, during the interview provided for under Article 7, the applicant has expressed a preference for a particular Member State (with a maximum of two other Member States as alternatives) and there are substantiated or credible factors such as language skills, contacts with communities of the same country or region of origin, specific professional skills and job opportunities, or other factors deemed relevant for the purposes of integration, even temporarily, according to the information provided annually by the EASO, the country specified shall be responsible for examining the application for international protection, provided that, for the country in question, the 50 % threshold in relation to the reference number determined by the key referred to in Article 35 has not already been exceeded in the current year. **2. Where the aforementioned threshold has already been exceeded in that year, responsibility for examining the application for international protection shall, in this order, lie with:** **(a) the Member State specified in the interview as a second preference, provided that the conditions set out above are met, and that in the year in question the threshold referred to in the previous paragraph has not been exceeded;** **(b) the Member State specified as a third preference, provided that the conditions set out above are met, and that in the year in question the threshold referred to in the previous paragraph has not been exceeded;** **3. Where the threshold referred to in paragraph 1 has also been exceeded in the countries referred to in paragraph 2, the Member State responsible for examining the application shall be determined on the basis of the subsequent articles of this chapter.**

Reason

In keeping with the respect of fundamental rights and the principles of solidarity and fair distribution and in order to discourage secondary movements, in the hierarchy of criteria for determining the Member State responsible, connections and integration possibilities highlighted by the applicant and the reception capacities of each country (as determined by the Article 35 reference key for each country) should take precedence over the country of arrival. This would appear, after all, more consistent with the overall approach of the hierarchy of criteria set out in Chapter III (which focuses first on criteria linked to the applicant's characteristics and life path: in order, status of minor, family ties and possession of documents — even if expired less than 2 years previously — issued by a Member State).

Again in keeping with the principles of fair distribution and solidarity, it is appropriate, however, to limit the application of this criterion up to the threshold of 50 % of the capacity of each country, in order to prevent, in times of lesser influx, the burden falling solely on the countries deemed most attractive, overwhelming their reception capacity.

Only where the above threshold is exceeded (and once the subsequent thresholds referred to in paragraph 3 are reached) should responsibility for examining the application remain rooted in the first country of arrival.

NB: The notification by the EASO provided for under Article 43 should also be carried out in the situation provided for under subparagraph 1 of this amendment

Amendment 7

COM(2016) 270 final

Article 28(2)

Remedies

Text proposed by the Commission	CoR amendment
2. Member States shall provide for a period **of 7 days** after a notification of a transfer decision within which the person concerned may exercise his or her right to an effective remedy pursuant to paragraph 1.	2. Member States shall provide for a period **of 15 days** after a notification of a transfer decision within which the person concerned may exercise his or her right to an effective remedy pursuant to paragraph 1.

Reason

This should comply with the principle of allowing a reasonable period of time, at least 14 days (Diouf case).

Amendment 8

COM(2016) 270 final

Article 34(2)

General principle

Text proposed by the Commission	CoR amendment
2. Paragraph 1 applies where the automated system referred to in Article 44(1) indicates that the number of applications for international protection for which a Member State is responsible under the criteria in Chapter III, Articles 3(2) or (3), 18 and 19, in addition to the number of persons effectively resettled, is higher than **150 %** of the reference number for that Member State as determined by the key referred to in Article 35.	2. Paragraph 1 applies where the automated system referred to in Article 44(1) indicates that the number of applications for international protection for which a Member State is responsible under the criteria in Chapter III, Articles 3(2) or (3), 18 and 19, in addition to the number of persons effectively resettled, is higher than **120 %** of the reference number for that Member State, as determined by the key referred to in Article 35.

Reason

The threshold for triggering the automatic relocation mechanism needs to be set at a level which, although still exceeding the reception capacity of the Member State (as determined under Article 34(2)), ensures that the mechanism will be useful and that it will actually be activated.

The level proposed by the Commission (150 % of the reference number of each Member State) — also considering the greater rigidity of the system as a whole in the light of the changes proposed by the Commission and taking account of the statistics for the last 3 years — may mean that the mechanism is never activated at all or would only be, in any case, when the reception system and capacity of the most exposed Member States have reached saturation point, leading to a slow-down of the entire system and inevitable social tensions.

NB: The notification by the EASO provided for under Article 43 would have to be adapted to the new threshold as modified by this amendment.

Amendment 9

COM(2016) 270 final

Article 35

Reference key

Text proposed by the Commission	CoR amendment
1. For the purpose of the corrective mechanism, the reference number for each Member State shall be determined by a key.	1. For the purpose of the corrective mechanism, the reference number for each Member State shall be determined by a key.
2. The reference key referred to in paragraph 1 shall be based on the following criteria for each Member State, according to Eurostat figures:	2. The reference key referred to in paragraph 1 shall be based on the following criteria for each Member State, according to Eurostat figures:
(a) the size of the population (50 % weighting);	(a) the size of the population **of the Member State** (50 % weighting);
(b) the total GDP (50 % weighting);	(b) the total GDP **of the Member State** (50 % weighting);
	The reference key shall be corrected by reducing the share for the following year by 20 % of the difference between the share based on GDP and population and the average number of arrivals recorded by the Member State over the last 3 years, for countries which in the last 3 years have received an average share of arrivals higher than that determined on the basis of (a) and (b).
3. The criteria referred to in paragraph 2 shall be applied by the formula as set out in Annex I.	3. The criteria referred to in paragraph 2 shall be applied by the formula as set out in Annex I.
4. The European Union Agency for Asylum shall establish the reference key and adapt the figures of the criteria for the reference key as well as the reference key referred to in paragraph 2 annually, based on Eurostat figures.	4. The European Union Agency for Asylum shall establish the reference key and adapt the figures of the criteria for the reference key as well as the reference key referred to in paragraph 2 annually, based on Eurostat figures.

Reason

To determine the current effective reception capacity of a Member State, account must be taken of the number of migrants already received and of the impact of migration as a whole on the Member State's economic and social fabric. This amendment introduces a corrective element into the calculation of the reference key, to lessen the risk of undermining the objectives of solidarity and fair distribution, which are stated priorities in the proposed regulation. The amendment also meets the need to take a comprehensive approach, which takes account of the whole set of policies on asylum and of the migration issue as a whole.

NB: Obviously, the formula set out in Annex 1 (referred to in paragraph 3) would also have to be adjusted to the corrective element proposed in this amendment.

Amendment 10

COM(2016) 270 final

Article 37(3)

Financial solidarity

Text proposed by the Commission	CoR amendment
3. At the end of the 12-month period referred to in paragraph 2, the automated system shall communicate to the Member State not taking part in the corrective allocation mechanism the number of applicants for whom it would have otherwise been the Member State of allocation. That Member State shall thereafter make a solidarity contribution of EUR **250 000** per each applicant who would have otherwise been allocated to that Member State during the respective 12-month period. The solidarity contribution shall be paid to the Member State determined as responsible for examining the respective applications.	3. At the end of the 12-month period referred to in paragraph 2, the automated system shall communicate to the Member State not taking part in the corrective allocation mechanism the number of applicants for whom it would have otherwise been the Member State of allocation. That Member State shall thereafter make a solidarity contribution of EUR **60 000** per each applicant who would have otherwise been allocated to that Member State during the respective 12-month period. The solidarity contribution shall be paid to the Member State determined as responsible for examining the respective applications.

Reason

The imposition of a solidarity contribution on Member States that refuse relocations (even temporarily) seems like a good idea, based on a sound principle. However, the amount of the contribution should be set at a level that is fair and sustainable, so as not to exacerbate public opinion, and lead to certain Member States rejecting the very principle of solidarity out of hand. The contribution should thus be established at a level (EUR 60 000) that correlates to a fair benchmark, such as, for example, the average annual cost of reception and assistance for each applicant including health care costs, multiplied by the average duration of the permit granted to him/her.

Amendment 11

COM(2016) 271 final

Article 2

Tasks

Text proposed by the Commission	CoR amendment
The Agency shall perform the following tasks:	The Agency shall perform the following tasks:
(a) […]	(a) […]
(b) […]	(b) […]
(c) Support Member States in the implementing the CEAS;	(c) support Member States **and regional and local authorities** in implementing the CEAS;
(d) assist Member States on training of experts from all national administrations, courts and tribunals, and national services responsible for asylum matters, including the development of a common core curriculum	(d) assist Member States **and regional and local authorities** on training of experts from all national administrations, courts and tribunals, and national services responsible for asylum matters, including the development of a common core curriculum
(e) […]	(e) […]
(f) […]	(f) […]

Text proposed by the Commission	CoR amendment
(g) provide effective operational and technical assistance to Member States in particular when they are subject to disproportionate pressure on their asylum and reception systems	(g) provide effective operational and technical assistance to Member States **and regional and local authorities**, in particular when they are subject to disproportionate pressure on their asylum and reception systems.
[…]	[…]

Reason

Given that responsibility for providing the assistance and reception services often lies fully or partly with local and regional authorities, the EASO's support should also be directed at them.

Amendment 12

COM(2016) 271 final

Article 3(2)

Duty to cooperate in good faith and exchange information

Text proposed by the Commission	CoR amendment
2. The Agency shall work closely with the Member States' asylum authorities, with national immigration and asylum services and other national services and with the Commission. The Agency should carry out its duties without prejudice to those assigned to other relevant bodies of the Union and shall work closely with those bodies and with the United Nations High Commissioner for Refugees (UNHCR).	2. The Agency shall work closely with the Member States' asylum authorities, with national immigration and asylum services and other national, **regional and local** services and with the Commission. The Agency should carry out its duties without prejudice to those assigned to other relevant bodies of the Union and shall work closely with those bodies and with the United Nations High Commissioner for Refugees (UNHCR).

Reason

Given that responsibility for providing assistance and reception services to applicants often lies fully or partly with local and regional authorities, the EASO should also work directly with them.

Amendment 13

COM(2016) 272 final

Article 38

Transfer of data to third countries for the purpose of return

Text proposed by the Commission	CoR amendment
	Add after paragraph 3 **4. Under no circumstances may any data be transferred or made available to third countries that are not regarded as safe third countries under Directive 2013/32/EU.** **5. Under no circumstances may any data concerning minors be provided to third countries, even after they have reached the age of majority.**

Reason

Although the rationale for it is the need to facilitate returns, the whole of this article appears to expose applicants to possible reprisals upon return to their country of origin, in particular where these countries are not able, in turn, to ensure proper data protection. In any case, sharing data with third countries not considered to be safe and sharing data with any third country concerning children should, at the very least, remain prohibited.

II. POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS,

Objectives and general approach of the reform package

1. welcomes the European Commission's decision to propose a comprehensive reform of asylum legislation, emphasising the connection between the proposals set out in the first package submitted on 4 May 2016 and those in the second package submitted on 13 July 2016 (regulation on criteria for recognition of the right to asylum; regulation establishing a uniform asylum procedure; common standards on assistance). The current differences between the Member States' legal, procedural and assistance systems have an impact on the choices made by asylum seekers and increase secondary movements, thereby affecting the efficiency of the system for determining the Member State responsible and increasing the need to have recourse to Eurodac and to turn to the EASO for support;

2. endorses some of the first package's objectives, such as limiting unauthorised secondary movements, ensuring a fairer distribution of asylum seekers across the Member States and reinforcing the EASO and transforming it into an agency;

3. considers that the approach taken by the Commission in the proposal to reform the Dublin Regulation is inadequate. According to this approach, the system's shortcomings are due to extraordinary crises and could be tackled by introducing corrective measures and measures to reinforce the fundamental criterion (the EU country of entry is responsible). However, we are facing a structural crisis (the annual number of applications has tripled in the last 3 years from 2013 to 2015, exceeding 1,2 million — nine times higher than in 1985) and emergency management must go hand in hand with the introduction of a stable, efficient and more integrated system;

4. points out that in a number of ways, the application of the current system is being made even more rigid by coercive mechanisms (inadmissibility, consequent refusal of assistance and accelerated procedures); the co-legislators are therefore asked to verify with due care whether these measures are compatible with fundamental rights, particularly those of the most vulnerable people;

5. considers that initial reception capacity, the capacity to process applications in a timely fashion and the prevention of secondary movements are crucial factors in the stability of the system for managing and allocating asylum applications;

6. recommends building greater consideration for what applicants have done, their professional experience and what they want into the positive aspects of the Commission proposal (extending the concept of family unity to include siblings and family units formed subsequent to departure; the relevance of documents issued by a Member State, even when no longer valid), thereby discouraging secondary movements; stresses in this context that positive incentives should be privileged wherever possible over sanctions in trying to avoid unwanted secondary movements;

7. welcomes the introduction of accelerated, simpler procedures, but would point out that they must be used in order to make the system more efficient and fast-moving, and not to restrict fundamental rights; furthermore, considers that applications declared inadmissible or examined in accelerated procedure should be included in calculations for the application of the reference key referred to in Article 36;

8. firmly believes that the three proposals comply with the principle of subsidiarity in that they clearly tackle cross-border issues — such as solidarity between Member States, the development of a more integrated asylum system and better exchange of information between Member States. Such objectives could not be achieved by Member States acting individually. Furthermore, the proposed measures are necessary in order to achieve the objective of establishing uniform rules applicable to the entire European Union; in this respect, the proposals also comply with the principle of proportionality;

Guiding principles and corrective and compensation mechanisms

9. considers that making the reception capacity of each country (based on objective parameters) a factor in establishing responsibility for examining an application for international protection is a significant step forward, and was flagged up as a possible option in Commission communication COM(2016) 197 of 6 April 2016; is disappointed, however, that this criterion is to be applied as a last resort, only in times of crisis;

10. regrets that the Commission proposal completely disregards what applicants want, even when there are objective factors (knowledge of languages, work-related skills, previous stays) which would steer them towards a particular Member State;

11. would therefore suggest a change in the weighting of the criteria of reception capacity (compatible with taking the applicant's preferences and personal background into consideration) and country of first entry, according each criterion at least equal importance and taking account of the reference key referred to in Article 35 where they are to be applied in every case;

12. further suggests that in order to establish a Member State's real and current reception capacity, the number of arrivals in that country, which has an objective impact upon reception and management capacity, also be taken into account by incorporating this parameter into the reference key referred to in Article 35;

13. would also suggest, again in order to consider a Member State's real and current reception capacity, maintaining a time limit after which the responsibility of the Member State that has examined a request for international protection would cease for any further representations or a subsequent application by the same applicant, as laid down in Article 3(5). This limit could be set at 5 years, a period significantly longer than that currently in force;

14. calls on the Member States to develop reliable, transparent and fair internal systems for distributing the challenge of receiving migrants across their territories, taking into account the relevant socioeconomic data as well as past reception of the different cities and regions and the integration needs and prospects of the migrants, and assist in particular those cities/regions which are geographically exposed and therefore under particular pressure;

15. welcomes the introduction of a corrective mechanism for the allocation of applicants for international protection. However, the Committee would point out that the threshold proposed by the Commission for triggering the mechanism is so high that (for instance, looking at data for the past 3 years) even in times of crisis, the mechanism might not be triggered and so would be of no structural benefit;

16. in order not to undermine solidarity by overburdening the Member States, considers it essential that the rules on legal migration be effectively applied in keeping with the rule of law;

17. points out that the solidarity contribution to be paid by Member States which temporarily suspend participation in the automatic corrective mechanism is excessively high and unconnected to objective, fair parameters, such as assistance costs for a specific period; would therefore suggest that it be reduced, basing it on the average annual cost per beneficiary (estimated to be EUR 20 000 according to available data) and average length of legal residence (authorised for between 3 and 5 years);

18. further points out that the solidarity contribution proposed by the Commission is limited to cases when countries elect to suspend participation in the system, and that there is no provision for failure to implement decisions on relocation or taking charge of applicants or beneficiaries, despite the fact that, according to available data, the percentage of implementation is utterly inadequate (around 25 %). The Committee would therefore suggest that, in connection with reinforcing the EASO and transforming it into an agency, it be given responsibility for monitoring and reporting any failures to comply with requirements, partly so that the European Commission can apply penalties; alternatively, calls for the Asylum, Migration and Integration Fund to be reinforced or for a new solidarity fund to be set up to assist Member States and regional and local authorities put at a disadvantage when transfers are not carried out and those which are more rigorous about implementing and receiving such transfers;

19. also points out that the reduction in the above-mentioned solidarity contribution, compared to the amount proposed by the European Commission, (in the measure suggested in the present opinion) is necessary partly in order to prevent misunderstandings and the risk of damaging European citizens' trust in the European Union;

20. reiterates its call to make relevant EU funds supporting reception and integration of migrants directly accessible to local and regional authorities which bear key responsibilities in these domains;

Measures to reinforce the system, procedures and timeframes

21. calls for the removal of the most stringent measures (such as refusal of assistance up to exclusion from health care) intended to restrict the fundamental rights of people whose application has been declared inadmissible or who travel to other Member States while their application is being examined in the country responsible;

22. suggests nonetheless maintaining a time limit — albeit much longer than is presently the case (for example, 5 years rather than 12 months) — after which the responsibility of the Member State responsible for examining the first application ceases;

23. calls for a shorter timeframe for beneficiaries of international protection to obtain the status of long-term resident, particularly when there are clear ties to countries other than that in which the asylum application is being examined, as this is also likely to discourage secondary movements;

24. given the connection between the distribution of asylum applications between the Member States and the criteria and procedures adopted by them (which have an impact on the choices made by applicants, resulting in a 'race to the bottom' intended to discourage arrivals), considers that it is of the utmost importance that, in the medium term, we arrive at mutual recognition of asylum decisions by Member States and direct processing of applications also by the EU Agency for Asylum (in addition to Member-State authorities);

25. recommends that the term 'minors' representatives' in the legislative text be interpreted and subject to interpretation as, and where necessary amended to, 'officers responsible for upholding minors' rights', or any other term that, in the specific national context, is to be taken to mean a person or body independent of the administration and appointed on a legal basis or by a legal authority with the sole purpose of defending the interest of the minor;

Unaccompanied minors

26. in view of the data on arrivals in Europe of unaccompanied minors (88 000 in 2015, i.e. 6,7 % of all asylum seekers), recommends that the relevant structures and provisions for assistance be strengthened (in this regard, the proposal to reform the directive on reception conditions, included in the second package submitted on 13 July, is undoubtedly relevant as local authorities often have to provide these services);

27. recommends that action be taken to reinforce psychological support and counselling for unaccompanied minors and to give them easier access to legal assistance and ensure that they understand it. The Committee would recommend that officers responsible for upholding minors' rights be supported, improving their training and making them more independent, including with support from the EASO and civil society;

28. recommends that suitable information and cultural awareness campaigns be conducted in places where unaccompanied minors are living, in order to stave off mistrust and suspicion regarding them;

29. recommends identifying alternative transition pathways to the prospect of repatriation at the age of majority (prior to which temporary protection is granted), taking into account any ongoing education;

30. considers that pre-eminence of the principle whereby minors must not be moved from the place in which they are staying must be upheld, even when they are found in a Member State other than the country of entry following unauthorised secondary movements;

31. considers that protection and assistance must be kept up even when there are doubts that the child is a minor, until appeal procedures can be brought and the dispute has been resolved;

European Union Agency for Asylum

32. is pleased that the European Union Agency for Asylum (currently the EASO) has been given responsibility for providing technical and operational assistance and training, and that the Agency now has the option to take action (Article 16) even when no such request has been received from a Member State, when that Member State is subject to extraordinary pressure (Article 22);

33. calls for more timely, standardised and complete data to be sent to Eurostat, monitored by the EASO. This should include data on the percentage of instances of imprisonment for the purpose of transfer or repatriation and the justification there for, data on the percentage of transfers carried out and data on minors;

34. suggests that more resources be invested in the reception and integration systems of Member States, regions and local authorities, so that they can become involved during the asylum procedure and solutions and good practice can be shared with the EASO's support, including between local authorities;

35. calls for improved cross-border cooperation in the exchange of information between Member-State, regional and local-authority departments and in tracing family links;

36. calls for the hot spot approach to be developed in order to ensure that the transfer procedures provided for in this regulation are carried out swiftly and properly;

Eurodac

37. endorses the lowering of the age (from 14 to 6 years) for fingerprinting minors laid down in the Eurodac proposal, given that the disappearance of many people is reported at a late stage, and the sharing of data with European agencies and Member-State authorities; conversely, and unlike the Commission, considers that the ban on sharing data with third countries should remain in effect.

Brussels, 8 December 2016.

The President
of the European Committee of the Regions

Markku MARKKULA