



Council of the
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NOTE

From: Presidency

To: Permanent Representatives Committee

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Subject: Proposal for a Regulation of the European Parliament and of the Council establishing a Union Resettlement Framework and amending Regulation (EU) No 516/2014 of the European Parliament and the Council (First reading)

- State of play and guidance for further work

1. On 13 July 2016, in the framework of the reform of the Common European Asylum System (CEAS), the Commission submitted a proposal for a Regulation establishing a Union Resettlement Framework and amending Regulation (EU) No 516/2014¹. The proposal aims to enhance the legal and safe arrival of persons in need of international protection to Europe and to provide for a collective and harmonised approach for resettlement, with a unified procedure, reducing divergences among the national practices.

¹ 11313/16

2. COREPER approved a mandate for negotiations with the European Parliament on 15 November 2017 and the inter-institutional negotiations started in December 2017. On 13 June 2018, the Presidency and the rapporteur reached a provisional agreement on the main elements of the Regulation. The text of the provisional agreement was presented to COREPER on 20 June 2018 but it did not obtain the necessary support from delegations. Certain Member States expressed concerns regarding the substance of the text that had been negotiated with the European Parliament.
3. Consequently, the Presidency held bilateral meetings with these Member States with a view of identifying those provisions that would still need to be modified in order for the text of the provisional agreement to gain the necessary support. Based on these talks, new compromise proposals were presented to Parliament. However, after a first technical trilogue, the Parliament has informally indicated that in principle and for the time being it stands by the provisional agreement reached in the June trilogue.
4. On 9 October 2018, JHA Counsellors discussed possible compromise amendments focusing on the two key concerns expressed by the Member States during the bilateral meetings, namely the question of the "strategic use of resettlement" (recital 10) and the possible inclusion of the "integration prospects" in the refusal grounds of the Regulation (Article 6 (2) (bb)). These are set out in the Annex to this note.
5. Concerning strategic use, the Presidency proposes to concentrate on Recital 10 and not to touch the operative part of the regulation, keeping in mind that this has been the most controversial issue in negotiations with the Parliament. The new addition proposed by the Presidency links Article 4 to Article 3, thereby making a connection between the selection of a partner country and the country's contribution to migration management.

6. With regard to Article 6 (2) (bb), the Presidency suggests referring to the Charter of Fundamental Rights of the European Union instead of an explicit mention of "integration prospects", which was already firmly rejected by the European Parliament during the negotiations. This wording suggestion is more precise while still addressing core concerns of the member states. Doubts expressed by Member States during the JHA Counsellors meeting on 9 October 2018 concerning the concrete wording of Article 6 (2) (bb) have been taken aboard and respective changes have been introduced.
7. As already explained during the JHA Counsellors meeting on 9 October 2018, the reference to the values and principles of the Charter does not imply any individual obligation created by the Charter itself or by the fact that it is referred to in the Regulation. It was included as a means of indicating that a certain degree of adhesion to the shared basic values of the Union, for example the respect of the right to life, the principle of non-discrimination on the basis of sex and gender, the respect of the right to education,... is an element that may be considered when admitting people into a resettlement program. This general reference was considered to be more comprehensive than a listing.
8. Article 17 (3bis) related to the amendments of Regulation (EU) No 516/2014 has been deleted since it is currently part of a separate proposal from the European Commission².
9. Changes compared to the previous version of the text, as set-out in 10018/18 ADD 1, are indicated in **bold underlined** and deleted text is marked with [...].
10. Given the European Parliament's reluctance to reopen negotiations following the provisional agreement, changes thereto should be kept to an absolute minimum, in order to increase chances of getting the European Parliament back to the negotiation table.
11. Guidance for further work is without prejudice to the CEAS package approach.
12. Against this background, and with a view to possible upcoming discussions with the European Parliament, **COREPER is invited to confirm whether it can support the changes set out in this note.**

² 13356/18

**Proposal for a
Regulation of the European Parliament and of the Council
establishing a Union Resettlement Framework and amending Regulation (EU) No 516/2014 of
the European Parliament and the Council (First reading)**

...

- (10) The Union Resettlement and Humanitarian Admission Framework should be situated in the context of international resettlement and humanitarian admission efforts. The contribution of this framework to meeting global resettlement and humanitarian admission needs should help strengthen the Union's partnership with third countries with the objective of showing solidarity with countries in regions to which a large number of persons in need of international protection has been displaced. **When choosing the countries to cooperate with in the context of this Regulation, the Council should aim at alleviating [...]** the pressure on those countries, fostering those countries' capacity to improve reception and international protection conditions, and reducing irregular and dangerous onward movements of third-country nationals and stateless persons in need of international protection, in the context of migration.

Article 6

Grounds for refusing admission

1. The following third-country nationals or stateless persons shall be refused admission under this Regulation:
 - (-aa) persons recognised by the competent authorities of the country in which they have taken up residence as having the rights and obligations which are attached to the possession of the nationality of that country, or equivalent rights and obligations;
 - (a) persons for whom there are reasonable grounds for considering that:

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

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

- (b) persons for whom there are reasonable grounds for considering that they are a danger to the community, public policy, security or public health [...] of the Member State examining the resettlement file.
- (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) [...]
- (e) persons who have been granted international protection by Member States or a national humanitarian status as defined in point (c) of paragraph 2 of Article 2;
- (f) persons whom Member States have during the last three years prior to admission refused to admit in accordance with points (b) or (c) of this paragraph.

2. Third-country nationals or stateless persons may be refused admission where:
- (b) persons who during the last three years prior to admission have not given or have withdrawn their consent to be admitted to a particular Member State in accordance with Article 6a where they have been informed of the consequences of such withdrawal in accordance with paragraph 2b, **point (b)** of Article 10;
 - (ba) persons who have committed one or more crimes outside the scope of point (a) of paragraph 1 which would be punishable with a maximum sentence of at least one year of imprisonment had they been committed in the Member State examining the admission file, unless the prosecution or the punishment would have been statute-barred or, in case of a conviction for such a crime, an entry relating to that conviction would have been removed from the national criminal record, according to the law of the Member State examining the admission file;
 - (bb) persons refusing to participate in a pre-departure orientation programme referred to in point (c) of Article 10 (7) **or refusing to respect the values and principles embodied in the Charter of Fundamental Rights of the European Union;**
 - (bc) persons in relation to whom Member State cannot provide adequate support that the person needs on the basis of his or her vulnerability.

These grounds apply provided that they are without discrimination based on any grounds 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.

Article 17

Amendments to Regulation (EU) No 516/2014

(3 bis) [...]
