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European Union

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PV/CONS 47
JAI 684

DRAFT MINUTES

Subject: **3411th** meeting of the Council of the European Union (**JUSTICE AND HOME AFFAIRS**), held in Brussels on 22 September 2015

CONTENTS

Page

1. Adoption of the provisional agenda	3
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HOME AFFAIRS

NON-LEGISLATIVE ACTIVITIES

2. Proposal for a Council Decision establishing provisional measures in the area of international protection for the benefit of Italy, Greece and Hungary	3
3. Follow-up to the Council of 14 September 2015	3
4. Any other business	3
ANNEX - Statements for the Council minutes	4

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1. **Adoption of the agenda**

12065/15 OJ/CONS 47 JAI 664

The Council adopted the above agenda.

HOME AFFAIRS¹

NON-LEGISLATIVE ACTIVITIES

2. **Proposal for a Council Decision establishing provisional measures in the area of international protection for the benefit of Italy, Greece and Hungary**

= Adoption

12144/15 ASIM 88

The Council adopted the above Decision establishing provisional measures in the area of international protection for the benefit of Italy and Greece by qualified majority. The Czech Republic, Hungary, Romania and Slovakia voted against. Finland abstained.

The Czech Republic, Denmark, Finland, Hungary, Ireland, Romania, Slovakia, the Commission and the Council made unilateral statements. The Council and the Commission also made a joint statement. All statements are set out in the Annex.

3. **Follow-up to the Council of 14 September 2015**

= Presidency and Commission briefing

The Council took note of the information provided by the Presidency and the Commission regarding the implementation of the Council decision on relocation adopted on 14 September 2015.

4. **Any other business**

No issues were raised under this item.

¹ Exceptionally in the presence of Associated States.

STATEMENTS FOR THE COUNCIL MINUTES

Ad "B" item 2: **Proposal for a Council Decision establishing provisional measures in the area of international protection for the benefit of Italy, Greece and Hungary**
= **Adoption**

STATEMENT BY THE CZECH REPUBLIC

"In the opinion of Czech Republic, triggering of the relocation scheme by ways of adopting the respective Council Decision is a hasty move. The proposed relocation scheme will never be functional. In its letter addressed to the Luxemburg Presidency of the EU, the Czech Republic expressed its reservations concerning the proposed relocation procedure. Unfortunately, the Czech authorities have not yet received any reaction to their reservations concerning legal and technical aspects of the relocation scheme.

To the Czech Republic, the key shortcoming of the relocation scheme is that the free will of the relocated persons is not reflected enough, not speaking about the aspect of their secondary movement in the Schengen area. As a result of this, the relocated persons will only be brought nearer to the states they are heading to, all that at the costs of the EU and attracting more immigration to the EU. We have reasons to believe that should the EU immigration policy handle refugees as mere objects, which can be moved around, it is highly unlikely that it would ever function in the future.

The Czech Republic wishes to express its concerns with the procedure of adopting the respective Council Decision. In our opinion, major policy decisions such as the Council Decision of September 22, 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece should be, despite the possibility envisaged by the Treaty on the Functioning of the European Union, adopted by consensus. Council Decisions such as this one should be adopted so not only with the view of securing their enforceability as legal acts, but also to ensure legitimacy of the new policy concept in the eyes of all nations of the European Union.

The Czech Republic has raised its concerns of the fact, that the EU is moving away from the concept of voluntary participation of its Member States in the proposed relocation scheme. Forcing Member States to participate could be perceived as an unfortunate step threatening to weaken the spirit of cooperation within the European Union – even should it be taken in the name of solidarity.

In accordance with its interim *Statement on the Resolution of the Representatives of the Governments of the Member States meeting within the Council on relocating from Greece and Italy 40 000 persons in clear need of international protection*, the Czech Republic wishes to declare that:

- By the proposed scheme, we should not introduce a new systemic aspect to the Common European Asylum System. Should there be any discussions in the future on any permanent relocation scheme, these debates should start only after the functioning of the proposed temporary scheme would have been assessed thoroughly, including the aspect of secondary movements, the impact on the relocated persons as well as on the Member States of relocation and the scheme's overall added value to the general functioning of the EU's migration management. Compliance with the principle of proportionality must be thoroughly examined;
- The implementation of the Council Decision establishing provisional measures in the area of international protection for the benefit of Italy and Greece should be ruled by inseparability of the solidarity principle and responsibility of Member States in the field of migration management;
- Relocation transfers from Greece and Italy to the Czech Republic are subject to tangible results of these particular Member States in respect of registration, identification and fingerprinting of migrants as well as progress in returns of illegal migrants who do not qualify for international protection. To this end, the Czech Republic stands ready to assist the Member States concerned within the "hotspots" concept;
- In accordance with its abovementioned statement, the Czech Republic wishes to declare that it perceives internal security as a crucial part of the EU's migration management. In the light of that, the EU shall make full use of all possibilities proposed by the Council Decision, including on-site screening, by liaison officers of Member States of relocation, of persons to be relocated.

The Czech Republic stands ready to participate in solidarity measures and to take part, in a constructive manner, in efficient common actions which will facilitate proper management of migration flows both to the EU as well as within its borders."

STATEMENT BY DENMARK

"In the context of – and not as part of – the Council decision on the relocation of 120.000 asylum seekers from Italy and Greece, the Danish government has announced its intention to accept on a unilateral and voluntary basis 1000 asylum seekers from the planned registration centres in Italy and Greece."

STATEMENT BY FINLAND

"Finland welcomes the efforts made by all the parties today in the Council to find a solution in establishing provisional measures in the area of international protection for the benefit of Italy and Greece. Finland was prepared to accept the proposed allocation and to show solidarity to the affected countries by relocating about 2400 people. Nevertheless Finland could not vote in favour for a solution where the allocation was part of the Council Decision. For us, it was particularly important that the allocation would have been separated from the Decision made today and the allocations would have been agreed by the Member States separately by a resolution.

It was particularly important that the goal of 120 000 was reached."

STATEMENT BY HUNGARY

"Hungary could not support the adoption of the decision for the following reasons.

Hungary implemented the necessary measures in order to protect its borders which are also the external borders of the European Union and the Schengen area. The dimension and the complexity of the present migratory pressure on Europe require effective and sustainable measures at the level of the European Union, as well. Hungary is ready and willing to contribute to all such efforts.

At the same time Hungary is convinced that it is the sequence of adopting measures at the European level which has the utmost significance. Relocation could complement but not replace a comprehensive and effective common action to ensure efficient control at the external borders of the European Union. Regarding Hungary and the whole of the Western Balkan route it is the efficient control at the external borders of Greece which has a particular importance, as it serves as the first entry point for migrants from outside the EU. A clear distinction between asylum seekers and migrants with economic motivations is unavoidable. Safe countries of origin and safe third countries (of transit) need to be identified while appropriate conditions must be created in non-EU countries geographically close to the countries of origin, in particular in Turkey, Lebanon and Jordan.

Further to the above general considerations Hungary is in a specific situation. The necessary measures have been implemented for the protection of the southern borders of Hungary in order to meet the responsibility arising from its obligations set forth by the EU legislation and the Schengen Code. Due to the non-compliance with the responsibilities by certain EU member states, further efforts are required from Hungary to give effect to its determination to meet its legal obligation by ensuring effective control of its external borders.

Hungary is ready to contribute to the relocation efforts after having clarified when and to what extent the specific situation is addressed successfully.

Based on the above Hungary will provide the Council with further details at the earliest possibility, no later than 31 October 2015."

STATEMENT BY IRELAND

"The Irish delegation notes that it is intended that the Council will make a decision on the *Proposal for a Council Decision establishing provisional measures in the area of international protection for the benefit of Italy and Greece* less than 3 months after presentation of this proposal to the Council.

In these exceptional circumstances, mindful of the importance of the proposed Council Decision and in acknowledgement of the need to allow its speedy adoption and implementation, the Irish delegation will not insist, in this instance, upon its right to have 3 months within which to exercise Ireland's option to notify the President of the Council of its wish to participate in the adoption and application of the proposed Council Decision in accordance with the provisions of Article 3 of Protocol 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 the Treaty on the Functioning of the European Union."

STATEMENT BY ROMANIA

"Romania supports the efforts to identify viable and sustainable solutions for managing the migration phenomenon which affects the European Union and reiterates its commitment in respect to the principle of solidarity.

Reminding the Conclusions of the European Council of June 25-26, 2015, whereby Member States, on a voluntary basis, have shown solidarity with the persons in need of international protection, Romania considers that imposing mandatory quotas does not represent a viable solution to the refugee problem. This approach only targets the immediate symptoms and not the root causes of the phenomenon.

A challenge of such magnitude cannot be solved by imposing an automatic system of redistribution of migrants. It is absolutely necessary to take into account the specificities of each Member State and their actual reception and integration capacities for migrants."

STATEMENT BY SLOVAKIA

"The Slovak Republic reiterates its readiness to work towards a complex European solution of the current migratory crisis. It is committed to doing so on a basis that is practicable and respects national specificities of Member States.

The administrative distribution of asylum seekers as envisaged by the Council decision adopted on 22 September 2015, in our view, does not respect a voluntary nature of Member States' contributions.

We consider the adopted mechanism as an unsustainable way to respond to on-going migratory pressures. It fails to address fundamental issues such as irregular secondary movements, while neglecting preferences expressed by respective asylum seekers. Moreover, it acts as a pull factor to the growing influx of third-country nationals into Member States.

To demonstrate solidarity, however, the Slovak Republic is set to continue alleviating the pressure experienced by some Member States via a temporary relocation scheme, under which it accommodates applicants seeking asylum in those respective Member States during a pending asylum procedure."

**STATEMENT BY THE COUNCIL
on Article 6(5) of the decision**

"It is understood that Article 6(5) of the relocation Decision is a specific expeditious procedure intended to counter secondary movements of applicants or beneficiaries of international protection subject to relocation procedure and who enter the territory of another Member State than the Member State of relocation without fulfilling the conditions for stay in that other Member State. This procedure constitutes a *lex specialis* to the Dublin Regulation for the purpose of the smooth functioning of the relocation procedure."

**STATEMENT BY THE COMMISSION
on the Dublin (Permanent) Emergency Mechanism**

"The Commission will constantly monitor the situation regarding massive inflows of nationals of third countries in clear need of international protection and will, in the event of a further emergency situation resulting from such inflow, propose provisional measures for the Member State(s) concerned. This position is without prejudice to the Commission proposal for a Regulation establishing a crisis relocation mechanism (COM (2015)450). The Commission calls upon the European Parliament and the Council to continue discussions on this proposal as a matter of urgency."

JOINT STATEMENT BY THE COUNCIL AND THE COMMISSION

"The Council and the Commission agree that if a proposal for amending the relocation Decision is submitted by the Commission in accordance with Articles 1(2) and 4(3), with regard to the number of applicants mentioned in Article 4(1)(c), it should respect the overall limit of 120 000 applicants, as well as the allocations for Member States calculated in the same manner as in Annexes I and II to the relocation Decision."
