



Council of the  
European Union

Brussels, 9 February 2024  
(OR. en)

6377/24

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**Interinstitutional File:  
2016/0224/B(COD)**

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**JAI 226  
MIGR 55  
ASILE 23  
FRONT 38  
CODEC 387  
COMIX 63**

### **OUTCOME OF PROCEEDINGS**

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From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	6054/24
Subject:	Proposal for a Regulation (EU) .../... of the European Parliament and of the Council of ...establishing a return border procedure, and amending Regulation (EU) 2021/1148 - Letter to the Chair of the European Parliament Committee on Civil Liberties, Justice and Home Affairs (LIBE)

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Following the Permanent Representatives Committee meeting of 8 February 2024 which endorsed the final compromise text on the above-mentioned proposal with a view to agreement, delegations are informed that the Presidency sent the attached letter, together with its Annex, to the Chair of the European Parliament Committee on Civil Liberties, Justice and Home Affairs (LIBE).

Brussels, 08/02/2024

**Mr. Juan Fernando LÓPEZ AGUILAR**

Chair of the Committee on Committee on Civil Liberties, Justice and Home Affairs  
European Parliament  
Rue Wiertz 60  
B-1047 BRUSSELS

**Subject: Proposal for a Regulation of the European Parliament and of the  
Council...establishing a return border procedure, and amending Regulation (EU)  
2021/1148**

Dear Mr. LÓPEZ AGUILAR,

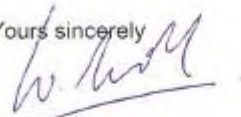
In relation to this file, I would like to inform you that when an agreement was reached on 20 December 2023 on the Amended proposal for a Regulation of the European Parliament and of the Council establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU and the proposal for a Regulation of the European Parliament and of the Council addressing situations of crisis and force majeure in the field of migration and asylum, the Legal Services of both the European Parliament and the Council were instructed by the political level to jointly assess, agree on, and present possible technical solutions with regard to risks of illegality deriving from variable geometry.

The Belgian Presidency in agreement with the Rapporteurs have therefore agreed to proceed with a split and establish an autonomous and self-standing act based on Article 79(2)(c) TFEU, resulting in the final text as set out in the Annex to this letter (subject to revision by the lawyer-linguists of the two institutions), which was agreed upon today by the Permanent Representatives Committee

I am therefore now in a position to inform you that, should the European Parliament adopt its position at first reading, in accordance with Article 294(3) TFEU, in the exact form of the text set out in the Annex to this letter (subject to revision by the lawyer-linguists of the two institutions), the Council, in accordance with Article 294(4) TFEU, will approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the position of the European Parliament.

On behalf of the Council, I also wish to thank you for your close cooperation which should enable us to reach agreement on this file at first reading.

Yours sincerely



Willem van de Voorde  
Chairman of the  
Permanent Representatives Committee

Copy:

- Ms Ylva JOHANSSON, European Commissioner for Home Affairs

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**Proposal for a**  
**REGULATION (EU) .../... OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of ...**  
**establishing a return border procedure, and amending Regulation (EU) 2021/1148**

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 Articles 77(2) and 79(2)(c) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Union, in constituting an area of freedom, security and justice, should ensure the absence of internal border controls for persons and frame a common policy on asylum and migration, external border control and returns as well as prevent unauthorized movements between Member States, based on solidarity and fair sharing of responsibility between Member States, which is also fair towards third-country nationals and stateless persons and in full respect of fundamental rights.

- (2) The objective of this Regulation is to streamline, simplify and harmonise the procedural arrangements of the Member States by establishing a return border procedure. Such a procedure should apply to third-country nationals and stateless persons whose application is rejected in the context of the asylum border procedure provided for in Articles 44-55 of Regulation (EU) .../... [APR Regulation].
- (3) For those Member States not bound by Regulation ... [APR], references in this Regulation to provisions in Regulations ... [APR] should be understood as references to equivalent provisions which they may have introduced in their national law.
- (4) With respect to the treatment of persons falling within the scope of this Regulation, Member States are bound by obligations under instruments of international law to which they are party.
- (5) The best interests of the child should be a primary consideration for Member States when applying the provisions of this Regulation that possibly affect minors.
- (6) Many applications for international protection are made at the external border or in a transit zone of a Member State, including by persons apprehended in connection with an unauthorised crossing of the external border, that is to say at the very time of the irregular crossing of the external border or near that external border after it has been crossed, or disembarked following a search and rescue operation. In order to conduct identification, security and health screening at the external border and direct the third-country nationals and stateless persons concerned to the relevant procedures, a screening is necessary. There should be seamless and efficient links between all stages of the relevant procedures for all irregular arrivals. After the screening, third-country nationals and stateless persons should be channelled to the appropriate asylum or return procedure, or refused entry. A pre-entry phase consisting of screening and border procedures for asylum, as applicable, and return should therefore be established.

- (7) Entry into the territory should not be authorised where an applicant has no right to remain, where he or she has not requested to be allowed to remain for the purpose of an appeal procedure provided for in Regulation ... [APR Regulation], or where a court or tribunal has decided that he or she should not be allowed to remain pending the outcome of such an appeal procedure. In such cases, to ensure continuity between the asylum procedure and the return procedure, the return procedure should also be carried out in the context of a border procedure for a period not exceeding 12 weeks. This period should be counted starting from the moment in which the applicant, third-country national or stateless person no longer has a right to remain or is no longer allowed to remain.
- (8) To guarantee the equal treatment of all third-country nationals whose application has been rejected in the context of the border procedure, where a Member State has decided not to apply the provisions of Directive XXX/XXX/EU [Return Directive] by virtue of Article 2(2), point (a), of that Directive and does not issue a return decision to the third-country national concerned, the treatment and level of protection of the applicant, third-country national or stateless person concerned should be in accordance with Article 4(4) of Directive XXX/XXX/EU [Return Directive] and be equivalent to those applicable to persons subject to a return decision.
- (9) When applying the return border procedure, certain provisions of 2008/115/EC should apply as these regulate elements of the return border procedure that are not determined by this Regulation, notably those on definitions, more favourable provisions, non-refoulement, best interests of the child, family life and state of health, risk of absconding, obligation to cooperate, period for voluntary departure, return decision, removal, postponement of removal, return and removal of unaccompanied minors, entry bans, safeguards pending return, detention, conditions of detention, detention of minors and families and emergency situations. To reduce the risk of unauthorised entry and movement of illegally staying third-country nationals subject to the return border procedure, a period for voluntary departure should be granted. Such period for voluntary departure shall only be granted upon request and should not exceed 15 days without the right to enter the territory of the Member State. The person should surrender any valid travel document in his possession to the competent authorities for as long as necessary to prevent absconding. The provisions on return in this Regulation are without prejudice to the discretionary possibility for Member States at any moment decide to grant an autonomous residence permit or other authorisation offering a right to stay for compassionate, humanitarian or other reasons to a third-country national staying illegally on their territory.

- (10) Where the illegally staying third-country national does not return or is not removed within the maximum period of the border procedure for carrying out return, the return procedure should continue in line with the provisions of the [Return Directive] which should apply.
- (11) Where an applicant, third-country national or stateless person who was detained during the border procedure for the examination of their application for international protection provided for in Regulation ... [APR Regulation] no longer has a right to remain and has not been allowed to remain, Member States should be able to continue the detention for the purpose of preventing entry into the territory and carrying out a return procedure, respecting the guarantees and conditions for detention laid down in Directive XXX/XXX/EU [Return Directive]. An applicant, third-country national or stateless person who was not detained during such a border procedure for the examination of an application for international protection, and who no longer has a right to remain and has not been allowed to remain, could also be detained if there is a risk of absconding, if he or she avoids or hampers return, or if he or she poses a risk to public policy, public security or national security. Detention should be for as short a period as possible and should not exceed the maximum duration of the return border procedure. When the illegally staying third-country national does not return or is not removed within that period and the return border procedure ceases to apply, the provisions of the [Return Directive] should apply. The maximum period of detention set by Article 15 of that Directive should include the period of detention applied during the return border procedure.
- (12) The return border procedure should facilitate, in a situation of crisis, the return of irregularly staying third-country nationals or stateless persons whose applications were rejected in the context of a crisis in the asylum border procedure provided for in Regulation (EU) .../... [APR] and who have no right to remain and are not allowed to remain, by providing the competent national authorities with the necessary tools and sufficient time ■ frame to carry out return procedures with due diligence. To be able to respond to situations of crisis in an effective manner, the return border procedure in a situation of crisis could apply also to applicants, third-country nationals and stateless persons subject to the return border procedure, whose applications were rejected before the adoption of a Council Implementing Decision as provided for in Regulation ... [Crisis Regulation] declaring that a Member State is confronted with a situation of crisis, and who have no right to remain and are not allowed to remain after such a decision.

- (13) In accordance with Article 72 of the Treaty on the Functioning of the European Union, this Regulation does not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.
- (14) With a view to ensuring a coherent implementation of Chapter II of this Regulation by the time of its entry into application, implementation plans at Union and national levels that identify gaps and operational steps for each Member States, should be developed and implemented.
- (15) The application of this Regulation should be evaluated at regular intervals.
- (16) The policy objective of the Instrument for Financial Support for Border Management and Visa Policy, established by Regulation (EU) 2021/1148 of the European Parliament and of the Council<sup>1</sup>, is to ensure strong and effective European integrated border management at the external borders, including by preventing and detecting illegal immigration and effectively managing migratory flows. Allowing the financing of support under that Instrument for solidarity actions within the context of Regulation ... [AMMR] would contribute to reaching the objectives of Regulation (EU) 2021/1148. Regulation (EU) 2021/1148 should therefore be amended.
- (17) The resources of the Instrument for Financial Support for Border Management and Visa Policy (BMVI) established, as part of the Integrated Border Management Fund, by the Regulation (EU) 2021/1148, and of other relevant Union Funds, can be mobilised to provide support to Member States' efforts in applying this Regulation, in line with the rules governing the use of the Funds and without prejudice to other priorities underpinned by the Funds. In this context, Member States will be able to make use of the allocations under their respective programmes, including the amounts that will be made available following the mid-term review. Additional support under the Thematic Facilities would be made available, in particular to those Member States which may need to increase their capacities at the borders.

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<sup>1</sup> Regulation (EU) 2021/1148 of the European Parliament and of the Council of 7 July 2021 establishing, as part of the Integrated Border Management Fund, the Instrument for Financial Support for Border Management and Visa Policy (OJ L 251, 15.7.2021, p. 48).



- (18) Regulation (EU) 2021/1148 should be amended to guarantee a full contribution by the Union budget to the total eligible expenditure of solidarity actions, as well as to introduce specific reporting requirements in relation to these actions, as part of the existing reporting obligations on the implementation of the Funds. Regulation (EU) 2021/1148 should also be amended to allow the Member States to provide financial contributions to the Instrument for Financial Support for Border Management and Visa Policy (BMVI) in the form of external assigned revenues.
- (19) Since the objectives of this Regulation, namely to establish a return border procedure, to provide for specific temporary rules in order to ensure that Member States are able to address situations of crisis and to allow the financing of support under Regulation (EU) 2021/1148 for solidarity actions within the context of Regulation ... of the European Parliament and of the Council [AMMR], cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of this Regulation, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (20) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.

- (21) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC<sup>2</sup>; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (22) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis*<sup>3</sup> which fall within the area referred to in Article 1, point A, of Council Decision 1999/437/EC<sup>4</sup>.
- (23) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*<sup>5</sup> which fall within the area referred to in Article 1, point A, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC<sup>6</sup>.

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<sup>2</sup> Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

<sup>3</sup> OJ L 176, 10.7.1999, p. 36.

<sup>4</sup> Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

<sup>5</sup> OJ L 53, 27.2.2008, p. 52.

<sup>6</sup> Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

- (24) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*<sup>7</sup> which fall within the area referred to in Article 1, point A, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU<sup>8</sup>,
- (25) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Regulation seeks to ensure full respect for human dignity and to promote the application of Articles 1, 4, 8, 18, 19, 21, 23, 24, and 47 of the Charter.

HAVE ADOPTED THIS REGULATION:

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<sup>7</sup> OJ L 160, 18.6.2011, p. 21.

<sup>8</sup> Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

# CHAPTER I

## GENERAL PROVISIONS

### *Article 1*

#### **Subject matter and scope**

1. This Regulation establishes a return border procedure. It applies to third-country nationals and stateless persons whose application is rejected in the context of the asylum border procedure provided for in Articles 44-55 of Regulation (EU) .../... [APR]. It also provides for temporary specific rules on the return border procedure in situations of crisis as defined in Article 1(4) of Regulation ... [Crisis Regulation].

This Regulation also amends Regulation (EU) 2021/1148, with the purpose of allowing the financing of support under that Regulation for solidarity actions within the context of Regulation ... of the European Parliament and of the Council [AMMR].

2. Temporary measures adopted pursuant to Chapter III of this Regulation shall meet the requirements of necessity and proportionality, be appropriate to achieving their stated objectives and ensuring the protection of the rights of the applicants and be consistent with the obligations of the Member States under the Charter of the Fundamental Rights of the European Union, and international law.
3. The measures in Chapter III of this Regulation shall be applied only to the extent strictly required by the exigencies of the situation, in a temporary and limited manner and only in exceptional circumstances. Member States may only apply the measures provided for in Chapter III upon request and to the extent provided for in the Decision referred to in Article 4(3) of Regulation XXX/XXX [Crisis].

## *Article 2*

### **References to Regulations ... [APR]**

For those Member States not bound by Regulation ... [APR], references in this Regulation to provisions in Regulation ... [APR] shall be understood as references to equivalent provisions which they may have introduced in their national law.

## *Article 3*

### **Definitions**

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

- (a) 'application for international protection' or 'application' means an application for international protection or an application as defined in Article 4, point (l), of Regulation (EU) .../... [APR];
- (b) 'applicant' means an applicant as defined in Article 4, point (m), of Regulation (EU) .../... [APR].

## CHAPTER II

### RETURN BORDER PROCEDURE

#### *Article 4*

##### **Return border procedure**

1. Third-country nationals and stateless persons whose application is rejected in the context of the asylum border procedure referred to in Articles 44-55 of Regulation (EU) .../... [APR] shall not be authorised to enter the territory of the Member State.
2. Member States shall require the persons referred to in paragraph 1 [...] to reside for a period not exceeding 12 weeks in locations at or in proximity to the external border or transit zones; where a Member State cannot accommodate them in those locations, it may resort to the use of other locations within its territory. The 12-week period shall start from when the applicant, third-country national or stateless person no longer has a right to remain and is not allowed to remain. The requirement to reside at a particular place in accordance with this paragraph shall not be regarded as authorisation to enter into and stay on the territory of a Member State. The conditions in those locations shall meet the standards equivalent to those of the material reception conditions and healthcare in accordance with Articles 16 and 17 of Directive ... [Recast Reception Conditions Directive] to those still considered to be ‘applicants’ within the meaning of Article 3(b) of this Regulation.
3. For the purposes of this Article, Article 3, Article 4(1), Article 5, Article 6(1) to (5), Article 7(2) and (3), Articles 8 to 11, Article 12, Article 14(1), Article 15(2) to (4) and Articles 16 to 18 of Directive 2008/115/EC [Return Directive] shall apply.
- 3a. When the return decision cannot be enforced within the maximum period referred to in paragraph 2, Member States shall continue return procedures in accordance with Directive 2008/115/EC [Return Directive].

4. Without prejudice to the possibility to return voluntarily at any moment, persons referred to in paragraph 1 shall be granted a period for voluntary departure unless there is a risk of absconding, or if the application for a legal stay has been rejected as manifestly unfounded, or if the person concerned is a risk to public policy, public security or national security of the Member States. The period for voluntary departure shall be granted only upon request and shall not exceed 15 days without the right to enter the territory of the Member State. For the purpose of this provision, the person shall surrender any valid travel document in his possession to the competent authorities for as long as necessary to prevent absconding.
5. Member States that, following the rejection of an application in the context of the asylum border procedure referred to in Articles 44-55 of Regulation (EU) .../... [APR], issue a refusal of entry in accordance with Article 14 of Regulation (EU) 2016/399, and that have decided not to apply Directive 2008/115/EC [Return Directive] in such cases pursuant to Article 2(2), point (a), of that Directive, shall ensure that the treatment and level of protection of the third- country nationals and stateless persons subject to a refusal of entry are in accordance with Article 4(4) of Directive 2008/115/EC [Return Directive] and are equivalent to the treatment and level of protection set out in paragraph 2 of this Article and Article 5(3) of this Regulation.

#### *Article 5*

#### **Detention**

- 1. Detention may only be imposed as a measure of last resort when it proves necessary on the basis of an individual assessment of each case and if other less coercive measures cannot be applied effectively.

1. Persons referred to in Article 4(1) of this Regulation who have been detained during the asylum border procedure referred to in Articles 44-55 of Regulation (EU) .../... [APR] and who no longer have a right to remain and are not allowed to remain may continue to be detained for the purpose of preventing entry into the territory of the Member State, preparing the return or carrying out the removal process.
2. Persons referred to in [...]Article 4(1) of this Regulation who no longer have a right to remain and are not allowed to remain, and who were not detained during the asylum border procedure referred to in Articles 44-55 of Regulation (EU) .../... [APR], may be detained if there is a risk of absconding within the meaning of Directive 2008/115/EC [Return Directive], if they avoid or hamper the preparation of return or the removal process or they pose a risk to public policy, public security or national security.
3. Detention shall be maintained for as short a period as possible, and only as long as a reasonable prospect of removal exists and arrangements are in progress and executed with due diligence. The period of detention shall not exceed the period referred to in Article 4(2) of this Regulation and shall be included in the maximum periods of detention set in Article 15(5) and (6) of Directive 2008/115/EC [Return Directive] where a consecutive detention is issued immediately following the detention under this Article.

Within six months after the date of entry into force of this Regulation, the European Union Agency for Asylum shall, in accordance with Article 13(2) of Regulation (EU) No XXX/XXX (EU Asylum Agency), develop guidelines on different practices as regards alternatives to detention that could be used in the context of a border procedure.



**CHAPTER III**  
**DEROGATIONS APPLICABLE IN SITUATIONS OF CRISIS OR FORCE**  
**MAJEURE**

*Article 6*

**Measures applicable to the return border procedure in a situation of crisis**

1. In a situation of crisis as defined in Article 1(4) of Regulation ... [Crisis Regulation], Member States may, in relation to illegally staying third-country nationals or stateless persons whose applications were rejected in the context of the asylum border procedure referred to in Articles 44-55 of Regulation (EU) .../... [APR] pursuant to Article 11(4), (5) and (7) of Regulation ... [Crisis Regulation], and who have no right to remain and are not allowed to remain, derogate from [Articles 4(2) and 5(3) of this Regulation] as follows:
  - (a) By way of derogation from [Article 4(2) of this Regulation], the maximum period during which third-country nationals or stateless persons shall be kept at the locations referred to in that Article may be prolonged by an additional period of maximum six weeks;
  - (b) By way of derogation from [Article 5(3) of this Regulation], the period of detention set in that Article shall not exceed the period referred to in point (a) of this paragraph and shall be included in the maximum periods of detention set in Article 15(5) and (6) of Directive XXX/XXX [*Return Directive*];
2. Paragraph 1 of this Article shall also apply to applicants, third-country nationals and stateless persons subject to the asylum border procedure referred to in [Article 44 of Regulation (EU) XXX/XXX [*Asylum Procedure Regulation*]] whose application has been rejected before the adoption of the Council Implementing Decision referred to in Article 4(3) of Regulation ... [Crisis Regulation], and who have no right to remain and are not allowed to remain after the adoption of that Decision.

3. Organisations and persons permitted under national law to provide advice and counselling shall have effective access to applicants held in detention facilities or present at border crossing points. Member States may impose limits to such actions where, by virtue of national law, they are objectively necessary for the security, public order or administrative management of a detention facility, provided that access is not thereby severely restricted or rendered impossible.

#### *Article 7*

### **Procedural rules**

Where a Member State considers itself to be in a situation of crisis as defined in Article 1(4) of Regulation ... [Crisis Regulation], that Member State may request to apply the derogations referred to in Article 6 of this Regulation. Where a Member State makes such a request, Articles 2 to 6 and Article 17(3) and (4) of Regulation ... [Crisis Regulation] shall apply, as relevant. Where a procedure with a view to obtaining a derogation has already been initiated pursuant to Article 2 of Regulation ... [Crisis Regulation], Member States may make a request to apply the derogations referred to in Article 6 of this Regulation in the context of that procedure.

#### *Article 8*

### **Specific provisions and guarantees**

In a situation of crisis as defined in Article 1(4) of Regulation ... [Crisis Regulation], where applying the derogations referred to in Articles 6 of this Regulation the Member State concerned shall duly inform third-country nationals or stateless persons in a language which the third-country national or stateless person understands or is reasonably supposed to understand about the measures applied and the duration of the measures.

**CHAPTER IV**  
**AMENDMENTS TO REGULATION No 2021/1148**

*Article 9*

**Amendments to Regulation (EU) No 2021/1148 [= BMVI Regulation]**

1. In Article 2, new point (11) is added:

“(11) ‘solidarity action’ means an action funded through financial contributions provided by Member States, referred to in Article 44i(1) of [AMMR]. The scope of those actions is set out in Article 44a (2), point (b), of [AMMR].”

2. In Article 10, new paragraph 3 is added:

“3. Support under this Regulation may be financed, for the purpose of solidarity actions as defined in Article 2(11) [of this Regulation], by contributions made by Member States and by other public or private donors as external assigned revenue in accordance with Article 21(5) of the Financial Regulation.”

3. In Article 12, new paragraph 7a is added:

“7a. the contribution from the Union budget may be increased to 100% of the total eligible expenditure for solidarity actions.”

4. In Article 29(2), new point (aa) is added:

“(aa) the implementation of solidarity actions, including a breakdown of the financial contributions by actions and a description of the main results achieved as a result of the funding;”

5. In Annex II, point 1, new point (h) is added:

“(h) supporting solidarity actions, in line with the scope of support set out in paragraph 1 of Annex III.”

6. In Annex VI, Table 1, point I, new code 030 is added:

“[030 Solidarity actions]“

7. In Annex VI, Table 3 is amended as follows:

“005 Special Transit Scheme referred to in Article 17 006 Actions covered by Article 85(2)) of Regulation (EU) 2018/1240 007 Actions covered by Article 85(3)) of Regulation (EU) 2018/1240 008 Emergency assistance 009 Solidarity actions”

## **CHAPTER V**

### **FINAL PROVISIONS**

#### *Article 10*

#### **Challenge by public authorities**

This Regulation does not affect the possibility for public authorities to challenge the administrative or judicial decisions as provided for in national legislation.

#### *Article 11*

#### **Calculation of time limits**

Unless otherwise provided, any period of time prescribed in this Regulation shall be calculated as follows:

- (a) where a period expressed in days, weeks or months is to be calculated from the moment at which an event occurs or an action takes place, the day during which that event occurs or that action takes place shall not be counted as falling within the period in question;
- (b) a period expressed in weeks or months shall end with the expiry of whichever day in the last week or month is the same day of the week or falls on the same date as the day during which the event or action from which the period is to be calculated occurred or took place. If, in a period expressed in months, the day on which it should expire does not occur in the last month, the period shall end with the expiry of the last day of that month;
- (c) time limits shall include Saturdays, Sundays and official holidays in any of the Member States concerned; if a time limit ends on a Saturday, Sunday or official holiday, the next working day shall be counted as last day of the time limit.

## *Article 12*

### **Transitional measures**

Three months after the entry into force of this Regulation, the Commission, in close cooperation with the relevant Union agencies and Member States, shall present a common implementation plan to the Council to ensure that Member States are adequately prepared to implement Chapter II of this Regulation by the date of its entry into application, assessing gaps and operational steps required, and inform the European Parliament thereof.

Based on this common implementation plan, each Member State shall, with the support of the Commission and relevant Union agencies, establish a national implementation plan setting the actions and the timeline for their implementation, six months after entry into force of this Regulation. Each Member State shall complete the implementation of its plan by the date of entry into application of this Regulation.

For the purpose of implementing this Article, Member States may use the support of the relevant Union agencies and Union Funds may provide financial support to the Member States, in accordance with the legislation governing those agencies and funds.

The Commission shall closely monitor the implementation of the national plans.

## *Article 13*

### **Monitoring and evaluation**

By two years from the date of application of this Regulation and every five years thereafter, the Commission shall report to the European Parliament and the Council on the application of this Regulation in the Member States and shall, where appropriate, propose any amendments.

Member States shall, at the request of the Commission, send it the necessary information for drawing up its report not later than nine months before that time-limit expires.

*Article 14*

**Entry into force and application**

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
2. This Regulation shall start to apply from two years after its entry into force.

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*

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