

Written comments submitted by the Member States

**Proposal for a Regulation of the European Parliament and of the Council
establishing the Asylum and Migration Fund
– CEAS provisions (Article 16 and 17) –**

doc. WK 3687/20

Table of contents

AUSTRIA.....	2
BELGIUM	4
BULGARIA	7
ESTONIA.....	8
FINLAND	9
FRANCE	12
GERMANY	18
HUNGARY	26
IRELAND	28
ITALY.....	30
LATVIA	31
LUXEMBOURG.....	32
NETHERLANDS	33
POLAND.....	35
PORTUGAL	41
ROMANIA.....	45
SPAIN.....	46
SWEDEN	48
COMMISSION	52

AUSTRIA

The discussion paper focuses on specific provisions linked to CEAS which have not been negotiated. In order to guarantee coherence and to avoid contradictions in content between the AMF proposal and the CEAS proposals, it is very important to align the provisions linked to CEAS in AMF to the respective CEAS proposals.

This is why the new proposed recital and the review clause in Art. 34a is highly welcomed by AT.

Art. 16, Para. 1:

It is unclear, why the MS should receive their sums for resettled persons only every two years.

AT would like to ask for further clarification.

Art. 16, Para. 3:

Sums for Resettlement should be increased to €15.000 for vulnerable groups. Even if the amount is still bracketed, obviously the plan is to visibly increase these amounts. Because of that the inequality between “usual asylum procedures” and “Resettlement cases” will intensify. This will be in favour of those MS that have low numbers of “unprompted asylum seekers“, but higher numbers of Resettlement cases.

AT sees this amendment very critically.

Art. 16, Para. 7:

What is stated above, is even more intensified by the provisions foreseen in this paragraph: COM can via delegated acts increase the lumpsums, taking into account current inflation rates and relevant developments in the field of resettlement.

AT is critical also of this provision.

Art. 17:

Basically we see critically that a possible allocation mechanism is already anticipated in the AMF framework in this article and also in the last proposals.

Art. 17, Para. 8:

AT thinks it is very problematic that the COM has this much room to maneuver in terms of increasing the amounts through delegated acts.

AT thinks it would be more efficient to leave Art. 16 and 17 in brackets until further decisions on the CEAS proposals are made, especially when it comes to Art. 17 (Dublin). All provisions linked to CEAS in the AMF proposal have to be aligned anyway and therefor implementing the Presidency proposal would be going “backwards”.

BELGIUM

Belgium wants to thank the presidency for opening discussions on articles 16 and 17 of the AMF proposal – since a long time we have been asking to start negotiations on these articles as they go to the heart of the EU's financial solidarity regarding asylum responsibilities, whether it be as part of a structural CEAS reform or as a separate, self-standing mechanism.

Belgium agrees with the Presidency that these discussions should be no longer linked to the existing CEAS package nor to new proposals that will be put on the table as part of the future Migration Pact. It would indeed seem highly unlikely to conclude the ordinary legislative procedure in relation to those proposals in time for them to enter into force before the end of the year, and we agree that time is pressing to come to an agreement on the AMF regulation as part of the broader MFF negotiations.

But this does not mean that we should not discuss some fundamental financial issues already now. Especially in these challenging times we believe it is of utmost importance that we take this unique opportunity offered by the MFF negotiations to rethink our existing financial solidarity mechanisms designed to compensate Member States that take additional responsibilities regarding receiving, processing and integrating asylum seekers and refugees.

We are convinced this is possible in such a way as not to prejudice future discussion or decisions regarding a more structural CEAS reform – the Presidency's proposal to include a review clause in AMF in order to be able to take into account possible new policy choices can be supported. But just updating the AMIF 2014 system of lump sums for voluntary relocation, as proposed by the Presidency in article 17, is not acceptable as it does not take into account the current realities of our dysfunctional common European asylum system, characterized by major imbalances and unequal and unfair distribution of responsibilities and burdens, leading to undermining mutual trust, the functioning of the Schengen area and thus the core values and principles of our Union. Moreover such a limited approach seems to further institutionalize the current system of "ad hoc" relocation agreements, while this approach has proven not to be very effective and rather consolidates and contributes to the existing inequalities than that it offers long-lasting or tangible results. According to BE, first steps to overcome this mere "ad hoc" approach on solidarity, without prejudice to any future more fundamental system switch, could and should be taken already now.

Emergency support measures finally have often proved to be unsatisfactory in recent years, including for (potential) beneficiary MS. They were not always based on objective criteria and fell short in terms of implementation, which undermined their legitimacy, highlighting once again the need for more structural responses.

Adopting a new migration and asylum fund without trying to address in a more structural way at least some of these challenges and imbalances from a financial perspective, would be, as far as BE is concerned, be irresponsible and impossible to justify. The future negotiations with the European Parliament, which, from its side, has included an alternative financial solidarity mechanism compensating for the imbalances caused by the current asylum system in its opinion on article 17 AMF, provide for an excellent opportunity to address this from now on in our Council deliberations as well.

The current article 17 negotiations should be used to provide for such an alternative, interim financial solidarity mechanism. **The system Belgium would like to propose, should be based on facts, providing for objective information on the real burden MS carry in migration and asylum management. On this basis, a “fair share” should be calculated for each Member State in relation to the global EU effort, as well as the threshold of an “excessive burden” (expressed as a multiple of the fair share). These concepts should be used to trigger direct financial solidarity mechanisms based on lump sums per asylum seeker for which a MS becomes responsible above its “fair share” or “excessive burden”.**

The system as proposed by the Presidency provides for financial compensations for MS that voluntarily relocate asylum applicants or beneficiaries, also if their asylum systems are not at all under pressure. Destination countries that, because of strains on their asylum system as a consequence of the excessive burden they carry, would not participate in relocation, would not receive any such compensations, even if a large number of asylum applicants they receive as a consequence of secondary movements could be considered as “de facto” relocated asylum seekers for which, according to the basic rules and principles of the current system, they should not be responsible. This is not a fair system. **Therefore we want to propose that the number of asylum applicants a country registers beyond the threshold of an excessive burden are seen as a “bottom up” relocation and thus follow the article 17 financial logic and measures.**

It should be possible to agree on such a mechanism without prejudice to any future asylum reforms, but the basic principles of any such solution might continue to serve as a source of inspiration when discussing more long term measures. The more equal the burden is distributed among Member States, the less financial solidarity will be needed. In a future ideal situation of equal distribution as part of broader solidarity an responsibility mechanisms to be agreed upon, the cost of such a system would be zero.

The EU should, as long as no structural asylum reform has taken place, be able to effectively and directly support the disproportionate burden that some Member States will continue to carry as a consequence of the current dysfunctional system with suboptimal responsibility rules, lacking binding solidarity mechanisms and presenting persistent secondary movements, especially in the event of current and future crises. This has been repeatedly stressed by Belgium at the political level and also several recent letters of migrations ministers from destination and frontline Member States have conveyed similar messages.

Notwithstanding the abovementioned position and general reservation on the Presidency's proposal for article 17, Belgium nevertheless also wishes to share the following technical comments regarding the text submitted by the presidency:

1. As a general remark regarding the proposed article 17, the text should be modified in order to avoid confusion regarding the possible links with the Dublin regulation. The used wording "... transfer of applicants for international protection..." in the title and in the body of the text lets too much room for interpretation in this regard. If the aim is not to create a mechanism for financing Dublin transfers (which we understand is not the intention of the Presidency), other wording must be used.
2. Art 17 (4): we notice that Eurodac has been chosen as the database to enable the calculation of lump sums to be allocated to each member state in the case of a person who complied with a removal order. With a view to diminish administrative burden, we would like to encourage the use of EU-databases on the basis of which lump sums can be allocated. We would like to see this principle as well in the other stipulations of art 16 and 17 in which statistics are needed to calculate the lump sums to be paid to each Member State. For each paragraph the most relevant database is to be searched, this should not be limited to JHA-databases (EUROSTAT for example, if suitable)
3. Art 17 (6): why has the same paragraph not been integrated in art 16 as well?

BULGARIA

We acknowledge that the Presidency discussion paper raises an important question considering the stage of the negotiations on the three funds in the area of JHA. It is of great importance to assure the timely funding for the priority areas of support under the AMF, as we believe that one system can be effective only if it is sufficiently financially secured.

However, by doing so, we must also remember the reasons why Art. 16 and Art. 17 are kept in square brackets. We consider as necessary to preserve the package approach towards the CEAS reform and maintain the principle of nothing is agreed until everything is agreed.

In this regard, we can support the proposed amendments as long as any possibility of predetermining the outcome of the CEAS reform is excluded. Such an effort is crucial at a moment when the European Commission is expected to deliver new proposals which should address the legitimate concerns of all Member States.

ESTONIA

In general, Estonia considers that the solidarity is important, however, solidarity can take various forms in practice. The decision to participate in resettlement and relocation should in any case remain voluntary for the MS. We did not identify inconsistencies between proposals for the AMF and EURF regulations and therefore we can in general support the changes made in the AMF Regulation.

With regard to Article 17(1), the definition of *fair sharing of responsibility* needs to be clarified as it is subjective and Member States have not agreed on this in the CEAS discussions.

The wording proposal of art 17(1): “*With a view to implementing the principle of solidarity and fair sharing of responsibility ~~and~~ in the light of Union policy developments within the implementation period of the Fund, Member States shall receive, in addition to their allocation calculated in accordance with point (a) of Article 11(1), an additional amount based on a lump sum of EUR [10 000] for each applicant for international protection or beneficiary of international protection^[1] transferred from another Member State.*”

^[1] The Presidency would envisage using the definitions in Article 2 of Regulation 516/2014.

FINLAND

General remarks

- Indeed, the formulations of the articles 16 and 17 should be drafted in a way as to not prejudice the outcome of the discussions in the Council on the CEAS proposals.
- FI recognizes the need to ensure that AMF Regulation could be in place without unnecessary delays or even before the end of 2020. FI therefore thanks and supports the Presidency for paying attention to these particular provisions that are of significant importance for the Fund and its wider aims. FI considers it of vital importance to continue and ensure financial support in particular for resettlement measures.
- However, taking into account the limits of the resources under the Thematic Facility, availability and continuity of funding for resettlement should be ensured.
- Reporting requirements in respect of these articles should be as simple as possible in order to avoid creating administrative burden for the MS concerned.

New recital

FI can be flexible (*although it's kind of self-evident that the Regulation is to be amended if its circumstances are fundamentally revised*).

Article 2: Definitions

FI can be flexible with the proposed formulation.

Article 16

1. All resettlement efforts carried out by the Member States should be supported in order to both highlight resettlement as a safe and considerable way to offer international protection to the most vulnerable persons but also to raise the global role of the EU as a leading actor when it comes to resettlement. Thus, FI fully supports the Presidency formulation that takes into account all resettled persons as a basis for financial compensation.
2. If the “humanitarian schemes” refer directly to “humanitarian admission” mentioned in the title of the article, harmonization of the terminology should be considered.

3. As resettlement is prioritized as "a safe and sustainable way" for humanitarian migration, even higher lump sums could be purposeful given the overall resources allow that. Higher compensation for vulnerable groups could be appropriate when taking into account that especially medical and emergency cases inevitably cause more costs for the resettling MS.
4. FI can be flexible with the proposed formulation.
5. The proposed formulation for article 16(5) raises some questions: "Where appropriate, Member States may also be eligible for lump sums for family members of persons referred to in paragraphs 1, 2 and 3 to ensure family unity."
 - The combination 'where appropriate' + 'may be eligible' leaves quite some room for manoeuvre: how is it determined which family members are covered? Member States should be able to know this in advance.
 - Which procedures for 'ensuring family unity' are referred to in the provision? If it only covers family units resettled together, it is questionable why such a provision is necessary in the first place as the cases should be covered already by the previous paragraphs. Does it cover also subsequent family reunification and if so, under which conditions? Only pre-existing family members? Furthermore, an understanding was reached in the trilogies with the EP that the definition of family members in the Regulation may need to be adapted linguistically.
6. FI can be flexible with the proposed formulation.
7. FI can be flexible with the proposed formulation.

Article 17

1. FI can be flexible with the proposed formulation.
2. Para 2 on family members raises similar questions as with Article 16: “Member States may also be eligible for lump sums for family members of persons referred to in paragraph 1, where appropriate, provided that those family members have been transferred in accordance with this Regulation.” Member States would need clarity regarding the situations/family members to be covered by this provision.
3. As noted before, we should be careful with any additional reporting requirements. The formulation indicates that also a monitoring mechanism should be put in place to follow and report that the allocated funding is used for the implementation of integration measures. FI therefore sees that no such earmarking should be added to these provisions on additional resources that are merely to incentivize rather than to cover the costs that are incurred because of the transfers. FI suggests to delete the words for the “implementation of integration measures”.
4. FI is somewhat concerned about the sufficiency of resources under the Thematic Facility to cover the proposed cases.
5. FI can be flexible with the proposed formulation.
6. FI can be flexible with the proposed formulation.
7. FI suggests that a clause “Those amounts shall not be transferred to other actions under the national programme” would be added to this paragraph in line with a similar clause in the article 16.
8. FI can be flexible with the proposed formulation.

Article 34a

FI can be flexible with the proposed formulation.

FRANCE

Commentaires généraux

Les autorités françaises remercient la Présidence de poursuivre les discussions sur les instruments financiers JAI, qui demeurent également soumis à un calendrier restreint.

Nous soutenons le financement par le FAMI **des opérations de réinstallation, d'admission humanitaire et de solidarité entre les États membres** et plus particulièrement le recours aux crédits forfaitaires, dont nous saluons le caractère incitatif et souple d'utilisation. Toutefois, la question du soutien au financement des transferts à des fins d'éloignement doit encore faire l'objet de discussions internes et nous transmettrons nos remarques sur l'article 17 (4) ultérieurement. Nous souhaitons par ailleurs rappeler que l'organisation de ces opérations induit des coûts non négligeables et que le **versement de préfinancements, existant dans le cadre financier actuel, est un atout important**. Les taux de préfinancement, qui doivent - à niveau transversal - encore être définis par les co-législateurs, doivent par ailleurs être suffisamment importants pour encourager de telles pratiques.

I. Nouveau considérant et nouvel article 34a permettant l'adaptation du règlement au futur RAEC

Commentaire :

A. Nous soutenons l'ajout d'un considérant visant à rappeler la nécessité d'adapter le règlement FAMI en fonction des évolutions du futur RAEC.

B. Nous nous interrogeons toutefois sur la nécessité de traduire cette proposition dans un article spécifique (article 34a). Nous estimons que la place de cette référence est dans les considérants et ne soutenons pas l'ajout de cet article.

- Article 2(g) : Définition de réinstallation revue au regard de l'absence de règlement créant un cadre européen de réinstallation

Commentaire :

C. Nous estimons que la définition proposée, reprenant en l'état la définition stabilisée de la proposition de règlement créant un cadre européen de réinstallation dans référence à ce dernier, est équilibrée et nous la soutenons.

C. Article 16 : Financement forfaitaire des réinstallations et des admissions humanitaires

A. Article 16(1) prévoyant un forfait de [10 000] euros par personne réinstallée

Commentaire :

D. Nous soutenons la formulation de l'article 16(1) et le montant du forfait accordé par personne réinstallée.

B. Article 16(2) prévoyant un forfait de [6 000] euros par personne admise dans le cadre d'un programme humanitaire (« humanitarian scheme »)

Commentaires :

E. Nous n'avons pas d'opposition à formuler sur le montant du forfait accordé par personne admise dans le cadre de l'admission humanitaire, à savoir 6000 euros.

F. Nous pourrions souligner la nécessité d'harmoniser les termes utilisés dans cet article (« *humanitarian admission* » dans le titre et « *humanitarian schemes* » au point 2).

G. De plus, nous rappelons que le règlement financier doit renvoyer à une définition de « *humanitarian admission* » ou « *humanitarian schemes* » dans les textes européens ou, le cas échéant, inclure une définition conforme à celle retenue dans le cadre des négociations du futur règlement réinstallation qui doit inclure, notamment, les visas pour asile.

H. Cette définition pourrait être insérée à l'article 2, selon les termes suivants : « *'Humanitarian admission' means the admission, following, where requested by a Member State, a referral from the UNHCR, the European Union Agency for Asylum or another relevant international body, of third-country nationals or stateless persons, from a third country to which they have been forcibly displaced, to the territory of the Member States and who, at least, on the basis of an initial evaluation [...] are granted [...] international protection or a humanitarian status under national law that provides for rights and obligations equivalent to those of Articles 22 to 28 and 30 to 38 of Regulation (EU) XXX/XXX [Qualification Regulation] for beneficiaries of subsidiary protection* »

C. Article 16(3) définissant un forfait majoré à [15 000] euros pour les personnes vulnérables conformément aux catégories définies par le HCR.

Commentaire :

I. Cette proposition qui reprend la définition de publics vulnérables du règlement FAMI actuel convient à la France et nous la soutenons.

J. Nous soutenons l'augmentation du forfait à 15 000 euros pour ces publics. Toutefois, si celle-ci se traduisait par une baisse des engagements européens en matière de réinstallation, nous pourrions préférer le maintien d'un forfait unique de 10 000 euros par personne accueillie.

D. Article 16(4) précisant que les forfaits aux paragraphes précédents ne sont pas cumulatifs

Commentaire :

K. Nous n'avons pas de commentaire particulier et soutenons la proposition de la présidence.

E. Article 16(5) définissant l'éligibilité des membres de la famille au forfait

Commentaire :

L. Nous soutenons cette rédaction.

F. Article 16(6) spécifiant les modalités d'attribution des forfaits pour la réinstallation et l'admission humanitaire

Commentaire :

M. Nous n'avons pas d'opposition à formuler contre cette disposition, identique à celle du règlement en vigueur pour le cadre 2014-2020.

N. Nous pourrions toutefois soutenir une formulation plus claire, précisant le rythme de versement et les modalités de préfinancements, qui ne sont pas détaillées dans le cadre du RPDC.

O. En tout état de cause, nous pourrions rappeler l'importance de maintenir les modalités en vigueur pour le cadre 2014-2020, qui comprennent un préfinancement initial, des préfinancements annuels et un solde annuel calculé sur la base du nombre de personnes effectivement accueillies et apuré des préfinancements déjà perçus par l'État membre.

G. Article 16(7) précisant les modalités par lesquelles la Commission européenne peut adopter des actes délégués pour revoir les montants des forfaits.

Commentaire :

P. Nous soutenons cette rédaction identique à celle du règlement en vigueur pour le cadre 2014-2020.

IV. Article 17 : Financement forfaitaire des transferts dans le cadre de la solidarité européenne

A. Article 17(1) prévoyant un forfait de [10 000] euros accordé par demandeur d'asile ou bénéficiaire d'une protection internationale transféré par un État membre au nom de la solidarité européenne et d'un partage équitable de la responsabilité

Commentaire : 5

Q. La France soutient pleinement les principes de solidarité et de partage équitable de la responsabilité entre les États membres et, à ce titre, le financement des transferts de demandeurs d'asile et de bénéficiaires de la protection internationale qui est un incitatif financier visant notamment une plus grande solidarité européenne en matière d'asile.

R. Cette rédaction semble permettre la flexibilité nécessaire au financement continu des opérations de relocalisation qui prennent encore place sur une base volontaire et auxquelles la France participe activement.

B. Article 17(2) définissant l'éligibilité des membres de la famille au forfait

Commentaire :

S. Nous soutenons cette rédaction.

C. Article 17(3) octroyant un forfait supplémentaire de [10 000] euros par personne transférée obtenant une protection internationale dans l'Etat d'accueil

Commentaire :

T. Nous soutenons l'octroi d'un forfait supplémentaire pour les personnes transférées et obtenant une protection internationale.

U. Nous estimons que la somme de 10 000 euros est importante au regard des autres financements déjà prévus sous l'objectif « intégration » du FAMI, et pourrions accepter une baisse de ce forfait dans le cadre des négociations.

D. Article 17(4) octroyant un forfait supplémentaire de [10 000] euros par personne transférée et ayant effectivement quitté le territoire de l'Etat d'accueil de manière forcée ou volontaire

Commentaire :

➤ *Dans l'attente d'une position consolidée sur cette question, nous émettons une réserve d'examen sur ce point.*

E. Article 17(5) octroyant un forfait à l'Etat de départ de la personne relocalisée d'un montant de [500] euros

Commentaire :

W. Nous soutenons l'octroi d'un forfait de 500 euros par personne pour l'organisation du transfert.

X. Toutefois, nous pourrions nous ranger derrière la proposition du Parlement, prévoyant un remboursement au réel des coûts de l'accueil et du transfert, si cela permettait de dégager un compromis.

F. Article 17(6) spécifiant que les forfaits de cet article ne sont pas liés aux coûts effectifs des actions liées à ces derniers, comme stipulé par l'Article [125] du règlement financier

Commentaire :

Y. Pas de commentaire

G. Article 17 (7) spécifiant les modalités d'attribution des forfaits de relocalisation

Commentaire :

Z. Nous ne soutenons pas en premier lieu cette rédaction qui propose un financement unique sur la base des transferts effectués et ne prévoit aucun préfinancement au profit des relocalisations. Nous rappelons qu'il s'agit à ce stade de choix politiques volontaires qu'il convient de faciliter à l'aide du budget européen, et qui ne doivent pas peser de manière disproportionnée sur les budgets nationaux des États membres affichant un certain niveau de solidarité.

AA. Nous préférierions ainsi une rédaction similaire à celle de l'Article 16 (6) comme suit :

“The additional amounts referred to in paragraphs 1 to 5 of this Article shall be allocated to the Member States **every two years, for the first time in the individual financing decisions approving their national programme those amounts shall not be transferred to other actions under the national programme** in their programmes provided that the person in respect of whom the contribution is allocated was, as applicable, effectively transferred to a Member State, effectively returned or registered as an applicant in the Member State responsible in accordance with Regulation (EU) 604/2013 [Dublin Regulation].”

BB. Toutefois, nous pourrions accepter la proposition de compromis sous réserve de clarifications sur le rythme des versements des forfaits, qui doit être annuel.

H. Article 17(8) précisant les modalités par lesquelles la Commission européenne peut adopter des actes délégués pour revoir les montants des forfaits.

Commentaire :

CC. Nous soutenons cette rédaction identique à celle du règlement FAMI en vigueur.

GERMANY

GER thanks the Presidency for its efforts to bring the positions of the Council and EP closer together in order to adopt the AMF Regulation in good time.

We particularly welcome the review clause. Otherwise, GER submits a scrutiny reservation.

We also suggest further revision of the proposal on Articles 16 and 17. In view of the current state of the MFF negotiations and the total volume of the AMF planned so far, we consider it too early to consider a significant increase in payments based on the lump sums. While high lump sums are necessary to provide positive incentives, it is equally important that the AMF is adequately funded for the whole budgetary period. The impossibility of granting lump sums towards the end of a budget period would lead to a sudden stop of incentives and, as a consequence, possibly to fewer takeovers and relocations, even though these may be necessary. This could also significantly reduce the Commission's ability to finance other important measures and projects, particularly emergency aid. We would therefore prefer, at least for the time being, to maintain the current lump sums.

We encourage the presidency and the Commission to further explain the possible consequences of an increase in the lump sums.

New Recital

A new recital is inserted:

"In view of the fact that certain aspects of this Regulation relate to the current system of asylum in the Union, it is appropriate to provide for a review mechanism to ensure consistency with any future revision of that system. Consequently, in the event that the Union's asylum system is revised in a -manner_ that could have an impact on the functioning of this Regulation, the Commission should present an appropriate proposal to amend this Regulation to the extent necessary."

DE comments:

Would it be possible to set a time frame for the review? Or insert a "in due time"?

Article 2: Definitions

Definition of 'resettlement' is replaced by the following:

"(g) 'resettlement' means the admission, following a referral from the United Nations High Commissioner for Refugees ('UNHCR'), of third-country nationals or stateless persons from a third country to which they have been displaced, to a Member State, and who are granted international protection and have access to a durable solution in accordance with Union and national law;"

DE Comments

GER is of the opinion that for this purpose the definition contained in the current AMIF regulation 2014/516 (Article 2 b) should be used.

Furthermore, we would ask for clarification: are further adjustments to the definitions in Art. 2 necessary, as e.g. also Art. 2 a, c were outside the council mandate and refer to the CEAS-proposals?

It is noted that also a re-formulation of the definition for "humanitarian admission" is needed (Article 2 e)).

GER suggests a slight reformulation (in accordance with the current definition of RST in Article 2 of Regulation 516/2014 as follows:

"...the territory of the a Member States, and..."

DE request a clarification:

As this definition was drawn from the new CEAS-proposal as agreed during the trilogue – would the reference to international protection here have still the same meaning as under the new CEAS-proposal?

Would this definition in any way restrict the groups of persons to be admitted compared to Art. 2 a of the AMIF regulation 2014/516, which included under (iii) "any other status which offers similar rights and benefits under national and Union law as those referred to in points (i) and (ii);"

Article 16

Article 16 is replaced by the following:

DE comments: *A definition of the term “humanitarian admission” should be added in Article 2 (see comment above)*

While Art. 17 include a para covering the costs for transfer, Art. 16 does not include any regulation. What are the reasons for this different treatment?

"Resources for Resettlement and humanitarian admission"

1. Member States shall, in addition to their allocation calculated in accordance with point (a) of Article 11(1), receive every two years an additional amount of a lump sum of EUR [10 000] for each person admitted through resettlement.

DE comments:

What does that mean? Shall a member state receive for the same person the amount of 10.000 EUR every 2 years?

If so, for how many times will a member state receive the lump sum?

2. Member States shall, in addition to their allocation calculated in accordance with point (a) of Article 11(1), receive every two years an additional amount based on a lump sum of EUR [6 000] for each person admitted through humanitarian-admission schemes.

DE comments:

See question above

The same terminology as in the heading should be used.

3. The lump sum referred to in paragraph 1 shall be increased to EUR [15 000] for each vulnerable person, from the following vulnerable groups, who has been admitted through resettlement **or humanitarian admission**:

- (a) women and children at risk;
- (b) unaccompanied minors;
- (c) persons having medical needs that can be addressed only through resettlement **or humanitarian admission**;
- (d) persons in need of emergency resettlement or urgent resettlement for legal or physical protection needs, including victims of violence or torture.

DE comments:

GER supports the idea of increased lump sums for particular vulnerable groups. However, it is suggested that this increased lump sum should apply to admissions through resettlement and humanitarian admission alike. Why has this been struck out?

4. Where a Member State resettles a person belonging to more than one of the categories referred to in paragraphs 1, 2 and 3, it shall receive the lump sum for that person only once.

5. Where appropriate, **Member States may also be eligible for lump sums for family members** of persons referred to in paragraphs 1, 2 and 3 to ensure family unity.

DE comments:

Which lump sum is then applied to family members? Lump sum according to para 1 (10.000€), para 2 (6.000 €) or para 3 (15.000)?

Please clarify:

Which “family members” are meant how does this term relate to the Dublin-III-Regulation?

Under which preconditions will a MS actually receive a lump sum for family members?

6. The additional amounts referred to in paragraphs 1, 2 and 3 of this Article shall be allocated to the Member States every two years, for the first time in the individual financing decisions approving their national programme.

Those amounts shall not be transferred to other actions under the national programme.

DE comments:

GER is in favour to keep the flexibility open that was contained in the previous draft.

7. ~~To take account of current inflation rates and relevant developments in the field of resettlement, and within the limits of available resources, the Commission shall be empowered to adopt delegated acts in accordance with Article 32 to adjust, if deemed appropriate, the lump sums referred to in paragraphs 1 and 2 of this Article, to take into account the current rates of inflation, relevant developments in the field of resettlement, as well as factors which can optimise the use of the financial incentive brought by the lump sums.~~

DE comments:

Please delete this para:

In general we are very hesitant in terms of delegated acts. Only non-essential aspects of the legal act may be adjusted by delegated acts. With a view to its budgetary implications the size of lump sums are essential.

Anyway, the conditions under which COM shall be empowered to optimise the use of financial incentives are completely indefinite.

In addition lump sum payments and a need to adjust inflation does not go hand in hand, since lump sums do not require actual expenditures of this exact amount.

Article 17

DE comments:

GER welcomes the idea to foresee lump-sums in this Article to minimize administrative burdens.

In regard to this article some questions remain unanswered for us:

- Will the funds be allocated yearly? Or which other time frame is aimed for in the allocations of these funds?*

How and at what moment will the MS have to deliver proof that the applicant is actually a resident in the MS?

Article 17 is replaced by the following:

"Resources for the transfer of applicants for international protection or of beneficiaries of international protection"

1. With a view to implementing the principle of solidarity and fair sharing of responsibility and in the light of Union policy developments within the implementation period of the Fund, Member States shall receive, in addition to their allocation calculated in accordance with point (a) of Article 11(1), an additional amount based on a lump sum of EUR [10 000] for each applicant for international protection or beneficiary of international protection¹ transferred from another Member State.

DE comments:

Are the following interpretations of para (1) correct?

This Article does not cover Dublin-transfers under the Dublin-III-regulation but only transfers which take place because of a solidarity scheme (voluntary or mandatory).

In the current CEAS this article would cover Relocation.

Would it be possible to interpret this article under the current CEAS in such a way, that transfers based on Article 17 Dublin-III are covered, in particular if those transfers take place in the context of solidarity measures (SAR, "coalition of the willing" for Greece, etc.) in the EU.

These questions should be clarified (at least in the recitals).

2. Member States may also be eligible for lump sums for family members of persons referred to in paragraph 1, where appropriate, provided that those family members have been transferred in accordance with this Regulation.

DE comments:

Please clarify: 1.) what "family members" are meant and how does this term relate to the Dublin-III-Regulation? 2.) What is meant by "may be eligible" and "where appropriate"? Under which preconditions will a MS actually receive a lump sum for family members?

¹ The Presidency would envisage using the definitions in Article 2 of Regulation 516/2014.

3. A Member State referred to in paragraph 1 shall receive an additional contribution of EUR [10 000] per applicant who has been transferred from another Member State and granted international protection for the implementation of integration measures.

DE comments:

We support the idea. An addition should make sure, that this requires the effective residence of the applicant in the MS and that the integration measures actually take place.

4. A Member State taking over responsibility for an applicant international protection or beneficiary of international protection referred to in paragraph 1 or a Member State as referred to in paragraph 2 shall receive an additional contribution of EUR [10 000] per person for whom the Member State can establish on the basis of the updating of the data set referred to in Article 10(d) of Regulation (EU) 603/2013 (Eurodac Regulation) that the person has left the territory of the Member State, on either a compulsory or voluntarily basis in compliance with a return decision or a removal order.

DE comments:

We welcome that returns (compulsory and voluntary) are included here.

The additional contribution should be paid only when the person has left the territory of the EU, so please add “s” to “territory of the Member State”

However, it should be clarified that forcible return of “applicants for international protection” is inadmissible unless the procedure has been concluded (including legal remedies).

5. The Member State covering the cost of transfers referred to in paragraphs 1 and 2 shall receive a contribution of EUR [500] for each applicant of international protection or beneficiary of international protection transferred to another Member State.
6. The amounts referred to in this Article shall take the form of financing not linked to costs in accordance with Article [125] of the Financial Regulation.

7. The additional amounts referred to in paragraphs 1 to 5 of this Article shall be allocated to the Member States in their programmes provided that the person in respect of whom the contribution is allocated was, as applicable, effectively transferred to a Member State, effectively returned or registered as an applicant in the Member State responsible in accordance with Regulation (EU) 604/2013 [Dublin Regulation].

DE comments:

1. What do the phrases “effectively transferred” and “effectively returned” mean?
2. The current stay of the respective applicant and whether or not integrational measures actually took place should be taken into consideration, too.

8. ~~To effectively pursue the objectives of solidarity and fair sharing of responsibility between Member States, and within the limits of available resources, the Commission shall be empowered to adopt delegated acts in accordance with Article 32 to adjust, if deemed appropriate, the lump sums referred to in paragraphs 1, 3, 4 and 5 of this Article to take into account the dinternational protection current rates of inflation, relevant developments in the field of transfer of applicants for international protection and of beneficiaries of international protection from one Member State to another,~~

DE comments: Please delete, see comments to art. 16 para 7

Could you please elaborate these “factors” and give examples?

"... as well as factors which can optimise the use of the financial incentive brought by the lump sums."

Article 34a

A new Article 34a is inserted:

"Review

In the event of legislative amendments to the Union legal framework regarding the matters referred to in paragraph (g) of Article 2 and Articles 16 and 17 of this Regulation, the Commission shall, where appropriate, make a proposal to amend this Regulation to ensure consistency with those legislative amendments, whilst respecting the legitimate expectations of recipients. "

DE comments: GER supports a review clause.

HUNGARY

As regards the chosen approach of the Presidency, we agree with its assessment and conclusion on suggesting already starting the examination of the provisions of Article 16 and 17 in order to have the AMF Regulation in place before the end of 2020. Therefore, we support the opening of these provisions for discussion even before the new proposals of the Commission are launched and adding a review clause.

Nevertheless, we should keep in mind that as far as possible this exercise should be done in such a way as to not prejudice the outcome of the discussions of the new proposals. We are of the opinion that the latest proposal of the Presidency falls short of this objective in many perspectives as it already incorporates elements that are not part of the present AMIF Regulation, but have been raised during the reform negotiations. Therefore, we have serious concerns with regard to such new elements and enter a reservation on them.

Article 16

In the absence of an adopted Resettlement Framework Regulation, the text regulates in more detail the determination of the resources allocated to Member States for resettlement. In addition to the current lump sum of EUR 10 000, it introduces a lump sum amount of EUR 6000 for other humanitarian admissions and EUR 15000 for the resettlement of vulnerable persons.

As for Hungary, we still insist on resettlement or humanitarian admission to take place on a voluntary basis. At the same time, we fear that the increased amounts could lead to the fact that, in the event of a crisis, there would be no adequate resources to deal with it.

Article 17

The proposal goes beyond the rules of the current Common European Asylum System by providing a lump sum for the relocation of beneficiaries of international protection. This rule divided the Member States in previous rounds of negotiations, yet it is now included in this proposal.

It is also problematic, especially given that additional contribution of 10.000 EUR per person is set out both in case of granting international protection and a successful removal, that in the context of shared responsibility and solidarity, only relocation receives direct financial support through the Fund.

Article 34a

We can accept the review clause.

IRELAND

In principle Ireland has no issues with the approach being taken to advance the AMF Regulation and note that the review mechanism, which calls for the Commission to submit a legislative proposal for an amendment to the relevant provisions of the AMF Regulation to ensure consistency with any future revision of the CEAS, seems to be a logical and practical provision.

Please note however that there are certain aspects of the new text proposed that would pose difficulties for Ireland. As such, we would request that these concerns be taken into account.

Comments on the new text proposed.

- The new text inserts a definition of ‘resettlement’ into the AMF Regulation. The definition proposed is:
 - ‘resettlement’ means the admission, following a referral from the United Nations High Commissioner for Refugees (‘UNHCR’), of third-country nationals or stateless persons from a third country to which they have been displaced, to the territory of the Member States, and who are granted international protection and have access to a durable solution in accordance with Union and national law;"

What we currently class as ‘resettlement’ would not fall under this definition as people brought to Ireland under our resettlement programme are not granted international protection but are granted a national status of ‘programme refugee’ and are given the same rights as refugee/SP beneficiaries. This is provided for under the in the 2014 AMF Regulation:

- ‘resettlement’ means the process whereby, on a request from the United Nations High Commissioner for Refugees (‘UNHCR’) based on a person’s need for international protection, third-country nationals are transferred from a third country and established in a Member State where they are permitted to reside with one of the following statuses:
 - (i) ‘refugee status’ within the meaning of point (e) of Article 2 of Directive 2011/95/EU;

- (ii) ‘subsidiary protection status’ within the meaning of point (g) of Article 2 of Directive 2011/95/EU; or
- (iii) any other status which offers similar rights and benefits under national and Union law as those referred to in points (i) and (ii)

As such we would like to keep the 2014 definition or if this is not possible revise the wording to ensure that it provides for the option to grant any other status which offers similar rights and benefits under national and Union law.

- The definition of ‘humanitarian admission’ also contains a cross reference to the Union Resettlement Framework proposal and is also referred to in Article 16 but there is no new definition of humanitarian admission proposed in the new text. This would need to be included.
- Article 16 provides for a payment €10,000 for each person resettled and €6,000 for a person admitted under a humanitarian admission scheme. As stated above, what we currently class as resettlement would not fall under the definition of resettlement proposed by the Presidency and we may not be entitled to the payment of €10,000. The payment proposed for humanitarian admission is €4,000 less than for resettlement. It is not clear why the Presidency is proposing this different amount now, as the text agreed in the partial general approach provided for a payment of €10,000 for persons admitted under the Resettlement Framework proposal which included both resettlement and humanitarian admission. Further information or clarity on this change would be appreciated.

There are other areas in the partial general approach where definitions are by way of cross reference to previous CEAS proposal which will need to be changed but are not included in the revised text received e.g. the definition of an applicant for international protection and a beneficiary of international in Article 2(a) and 2(b) contain cross reference to the proposed Asylum Procedures Regulation and Qualification Regulation.

ITALY

In principle, we support the PCY approach on articles 16 and 17 in AMF draft regulation, with the aim of speeding up the negotiation on Home funds and provided that the proposed compromise won't prejudice the future CEAS reform. In this connection, we deem it adequate to have included an additional review clause in the new article 34a.

On the other amendments:

Article 2

The definition of resettlement is fine for us but we deem it necessary to also include a definition of humanitarian admission. To this aim the definition introduced in the proposal of resettlement regulation during the trilogue with the Parliament may be used here consistently. A mere reference to resettlement when it comes to humanitarian schemes is not enough in our view. On the other side we would need a broad definition which may encompass humanitarian corridors and emergency evacuations, carried out by Italy alongside with resettlement.

Article 16

We support the provision of meaningful lump sums (albeit they still have to be determined in the framework of the negobox) for resettlement and humanitarian admission.

Article 17

We appreciate the introduction of financial incentives for Dublin transfers, without prejudice of the allocation criteria to be decided in the framework of the Dublin reform.

The reference to beneficiaries, made in para. 1, 5 and 8, should be without prejudice of the possible inclusion of beneficiaries in the system of Dublin transfers, on which Italy keeps a cautious stance.

Para. 4 should be better clarified. Some linguistic inaccuracy may make the meaning of the provision unclear, putting together applicants/beneficiaries and illegal migrants to be returned.

As for the documents on BMVI (4067/20 and 4094/20) we keep a scrutiny reservation.

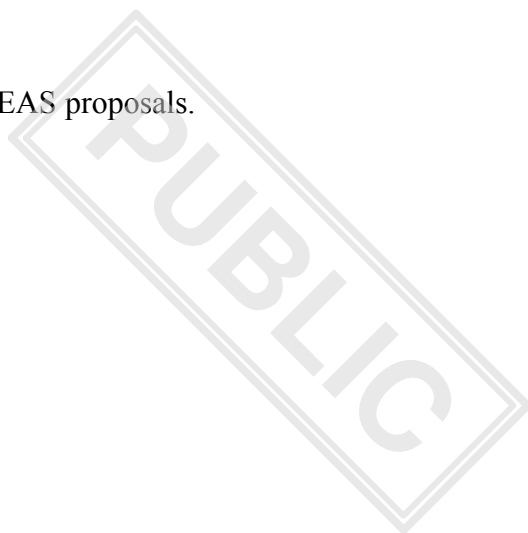
The proposals related to the horizontal provisions, contained in the documents 2728/20 and 3834/20, can be supported insofar they are referred to AMF, while a scrutiny reservation is kept for BMVI and ISF.

LATVIA

Latvia welcomes Presidency efforts to move forward and to try to reach agreement on AMF proposal, including possibility to receive funding for voluntary relocation and resettlement activities, ASAP. We believe it can be done without prejudice to ongoing discussion on CEAS reform. At the same time, we are convinced that in order to achieve this goal appropriate safeguards should be included to avoid any possible misunderstanding. Therefore, we would like to kindly ask Presidency to reflect on possibility to include additional safeguards (i.e., additional recital or Council's statement) to clearly state that it doesn't create precedent for further CEAS's reform.

LUXEMBOURG

Luxembourg can support proposal on the linked to the CEAS proposals.



NETHERLANDS

Please find below our written contributions on the proposal for a Regulation establishing the Asylum and Migration Fund and in particular, on key provisions linked to the pending proposals of the Common European Asylum System.

- Although the initiative to make progress on the AMF regulation is appreciated, the CEAS package is still being discussed and Commission proposals are expected. Isn't it therefore premature to discuss these proposals (regarding article 16 and 17)?
NL welcomes the proposal for a review clause in this regard.
- If the proposal is understood correctly the Netherlands can see that increasing the amounts could contribute to more resettlement and relocation as more resources become available for these procedures. however the Netherlands has questions regarding the financing of these (extra) costs from the Thematic Facility. Will the current amount/percentage from the TF be sufficient? The Netherlands is in favor of increasing the amount/percentage for the TF (at the expense of the amount reserved for the national envelope), but would be reluctant to see the entire TF spent on relocation and resettlement. what are the expectations of CION in this regard? how to maintain the required flexibility within the JHA funds, especially regarding the TF?
- Could you please provide a few calculation examples? This would help us understand the methods formulated in articles 16 and 17.
- Article 16: please elaborate on the reasoning behind receiving a lump sum 'every two years'? Does this correlate to the two year programming method defined in the Regulation on Resettlement?
- Article 16: does the "for each person" in the paras mean that for one resettled person a lump sum is reimbursed every two years? Does this make it possible to receive a lump sum several times for the same person that has already been resettled? What would be the total amount which could be received per person?

- Regarding article art 16 para 3 (c) persons having medical needs that can be addressed only through resettlement. What are considered to be medical needs of this kind? How will these be defined?
- Regarding article 16 para 5 and article 17 para 2: which ‘family members’ are meant? Only children of the resettled person who are resettled together (at the same time) with the resettled person? Other family members and if so which family members? Both? Can family members that join the resettled person at a later stage also qualify for the lump sum?
- Article 17 seems to address relocation, secondary movements and possibly Dublin? Is this correct?
- Can you elaborate on the total amount which could be received per person? We calculated a maximum of EUR 35.000.

POLAND

New Recital

A new recital is inserted:

"In view of the fact that certain aspects of this Regulation relate to the current system of asylum in the Union, it is appropriate to provide for a review mechanism to ensure consistency with any future revision of that system. Consequently, in the event that the Union's asylum system is revised in a manner that could have an impact on the functioning of this Regulation, the Commission should present an appropriate proposal to amend this Regulation to the extent necessary."

Poland sees the need for an urgent adoption of the AMF regulation. It is clear to us that work on the asylum reform will last much longer than until the end of this year. In addition, it will take place under new post-pandemic circumstances what should be taken into account.

Therefore we agree with linking the AMF and current CEAS and we are aware that adaptation of AMF to the revision of the asylum system will be necessary in the near future.

In this context new recital is acceptable to us.

The same with new definition of resettlement.

We have more doubts on proposals mentioned below. Please find additional questions.

Article 2: Definitions

Definition of 'resettlement' is replaced by the following:

"(g) 'resettlement' means the admission, following a referral from the United Nations High Commissioner for Refugees ('UNHCR'), of third-country nationals or stateless persons from a third country to which they have been displaced, to the territory of the Member States, and who are granted international protection and have access to a durable solution in accordance with Union and national law;"

Article 16 Article 16 is replaced by the following:

"Resources for Resettlement and humanitarian admission

1. Member States shall, in addition to their allocation calculated in accordance with point (a) of Article 11(1), receive every two years an additional amount of a lump sum of EUR [10 000] for each person admitted through resettlement.
2. Member States shall, in addition to their allocation calculated in accordance with point (a) of Article 11(1), receive every two years an additional amount based on a lump sum of EUR [6 000] for each person admitted through humanitarian schemes.
3. The lump sum referred to in paragraph 1 shall be increased to EUR [15 000] for each vulnerable person, from the following vulnerable groups, who has been admitted through resettlement: (a) women and children at risk; (b) unaccompanied minors; (c) persons having medical needs that can be addressed only through resettlement; (d) persons in need of emergency resettlement or urgent resettlement for legal or physical protection needs, including victims of violence or torture.

PL:

What is the reason behind this new wording?

Do we have enough funds in the context of recently proposed cuts under AMF?

4. Where a Member State resettles a person belonging to more than one of the categories referred to in paragraphs 1, 2 and 3, it shall receive the lump sum for that person only once.
5. Where appropriate, Member States may also be eligible for lump sums for family members of persons referred to in paragraphs 1, 2 and 3 to ensure family unity.

6. The additional amounts referred to in paragraphs 1, 2 and 3 of this Article shall be allocated to the Member States every two years, for the first time in the individual financing decisions approving their national programme. Those amounts shall not be transferred to other actions under the national programme.

7. To take account of current inflation rates and relevant developments in the field of resettlement, and within the limits of available resources, the Commission shall be empowered to adopt delegated acts in accordance with Article 32 to adjust, if deemed appropriate, the lump sums referred to in paragraphs 1 and 2 of this Article, to take into account the current rates of inflation, relevant developments in the field of resettlement, as well as factors which can optimise the use of the financial incentive brought by the lump sums.

Article 17

Article 17 is replaced by the following: "Resources for the transfer of applicants for international protection or of beneficiaries of international protection"

1. With a view to implementing the principle of solidarity and fair sharing of responsibility and in the light of Union policy developments within the implementation period of the Fund, Member States shall receive, in addition to their allocation calculated in accordance with point (a) of Article 11(1), an additional amount based on a lump sum of EUR [10 000] for each applicant for international protection or beneficiary of international protection transferred from another Member State.

PL reservation.

It is not clear what kind of procedure is mentioned here. Do you mean persons transferred under the Dublin III Regulation in accordance with existing criteria, or you refer to relocation mechanism, which does not occur in the current asylum acquis?

Regarding the beneficiaries of protection it should be noted that they are not covered by the Dublin III Regulation. Therefore what kind of transfers of beneficiaries of protection are mentioned at this point?

Why there is no direct reference to the current Dublin III Regulation in para 1?

2. Member States may also be eligible for lump sums for family members of persons referred to in paragraph 1, where appropriate, provided that those family members have been transferred in accordance with this Regulation.

PL:

Which regulation you meant here, AMF, Dublin III?

It is not really clear.

3. A Member State referred to in paragraph 1 shall receive an additional contribution of EUR [10 000] per applicant who has been transferred from another Member State and granted international protection for the implementation of integration measures.

4. A Member State taking over responsibility for an applicant international protection or beneficiary of international protection referred to in paragraph 1 or a Member State as referred to in paragraph 2 shall receive an additional contribution of EUR [10 000] per person for whom the Member State can establish on the basis of the updating of the data set referred to in Article 10(d) of Regulation (EU) 603/2013 (Eurodac Regulation) that the person has left the territory of the Member State, on either a compulsory or voluntarily basis in compliance with a return decision or a removal order.

3 The Presidency would envisage using the definitions in Article 2 of Regulation 516/2014.

5. The Member State covering the cost of transfers referred to in paragraphs 1 and 2 shall receive a contribution of EUR [500] for each applicant of international protection or beneficiary of international protection transferred to another Member State.

6. The amounts referred to in this Article shall take the form of financing not linked to costs in accordance with Article [125] of the Financial Regulation.

7. The additional amounts referred to in paragraphs 1 to 5 of this Article shall be allocated to the Member States in their programmes provided that the person in respect of whom the contribution is allocated was, as applicable, effectively transferred to a Member State, effectively returned or registered as an applicant in the Member State responsible in accordance with Regulation (EU) 604/2013 [Dublin Regulation].

8. To effectively pursue the objectives of solidarity and fair sharing of responsibility between Member States within the limits of available resources, the Commission shall be empowered to adopt delegated acts in accordance with Article 32 to adjust, if deemed appropriate, the lump sums referred to in paragraphs 1, 3, 4 and 5 of this Article to take into account the current rates of inflation, relevant developments in the field of transfer of applicants for international protection and of beneficiaries of international protection from one Member State to another, as well as factors which can optimise the use of the financial incentive brought by the lump sums."

Article 34a A new Article 34a is inserted:

Review

In the event of legislative amendments to the Union legal framework regarding the matters referred to in paragraph (g) of Article 2 and Articles 16 and 17 of this Regulation, the Commission shall, where appropriate, make a proposal to amend this Regulation to ensure consistency with those legislative amendments, whilst respecting the legitimate expectations of recipients."

PL reservation.

We are not sure why the Presidency proposal refers just to those two articles 16 and 17 concerning resettlement and transfers (relocation?). Why they have priority?

Therefore it is important for us to know more about the strategy of the Presidency concerning all links to the current CEAS within the whole AMF regulation.

We believe that a consistent approach is needed in this respect, rather than a selective one, especially that in PL opinion the asylum reform should be proceeded according to the package approach.

That is why all links with different instruments of current asylum system should be incorporated similarly throughout the whole text.

Wording of art.16 and 17 presented by the Presidency is mostly in line with the European Parliament's proposals.

That is why we would like to ask what about the next steps of negotiations with the Parliament after opening the square brackets?

PORTUGAL

New Recital

PT comments:

PT can support this drafting suggestion on a AMF Regulation review mechanism.

Nevertheless, PT would like to see the decision-making method clarified.

Article 2 – Definitions

PT can support this drafting suggestion.

Article 16

Resources for the Union Resettlement [and Humanitarian Admission] Framework

Paragraph 1

1. Member States shall, in addition to their allocation calculated in accordance with point (a) of Article 11(1), receive every two years an additional amount of a lump sum of EUR [10 000] for each person admitted through resettlement.

PT can support this drafting suggestion.

Nevertheless, PT would like to reaffirm its position to increase the value from 10 000 EUR to 20 000 EUR.

Paragraph 2

2. Member States shall, in addition to their allocation calculated in accordance with point (a) of Article 11(1), receive every two years an additional amount based on a lump sum of EUR [6 000] for each person admitted through humanitarian schemes.

PT requests further clarification on the introduction of this paragraph.

Paragraph 3

3. The lump sum referred to in paragraph 1 shall be increased to EUR [15 000] for each vulnerable person, from the following vulnerable groups, who has been admitted through resettlement:

(a) women and children at risk;

(b) unaccompanied minors;

(c) persons having medical needs that can be addressed only through resettlement;

(d) persons in need of emergency resettlement or urgent resettlement for legal or physical protection needs, including victims of violence or torture.

PT can support this drafting suggestion.

Nevertheless, PT proposes a proportional increase in view of its proposal to increase to EUR 20 000, that is, EUR 30 000.

Paragraph 4.

4. Where a Member State resettles a person belonging to more than one of the categories referred to in paragraphs 1, 2 and 3, it shall receive the lump sum for that person only once

PT can support this drafting suggestion

Paragraph 5.

5. Where appropriate, Member States may also be eligible for lump sums for family members of persons referred to in paragraphs 1, 2 and 3 to ensure family unity.

PT requests further clarification on the family reunification process and timing.

Paragraph 6.

6. The additional amounts referred to in paragraphs 1, 2 and 3 of this Article shall be allocated to the Member States every two years, for the first time in the individual financing decisions approving their national programme. Those amounts shall not be transferred to other actions under the national programme.

PT does not support this drafting suggestion.

Paragraph 7.

7. To take account of current inflation rates and relevant developments in the field of resettlement, and within the limits of available resources, the Commission shall be empowered to adopt delegated acts in accordance with Article 32 to adjust, if deemed appropriate, the lump sums referred to in paragraphs 1 and 2 of this Article, to take into account the current rates of inflation, relevant developments in the field of resettlement, as well as factors which can optimise the use of the financial incentive brought by the lump sums

PT can support this drafting suggestion.

Article 17

Resources to support the implementation of Regulation ../.. [Dublin Regulation]

Paragraph 1

1. With a view to implementing the principle of solidarity and fair sharing of responsibility and in the light of Union policy developments within the implementation period of the Fund, Member States shall receive, in addition to their allocation calculated in accordance with point (a) of Article 11(1), an additional amount based on a lump sum of EUR [10 000] for each applicant for international protection or beneficiary of international protection transferred from another Member State.

PT can support this drafting suggestion.

Paragraph 2

2. Member States may also be eligible for lump sums for family members of persons referred to in paragraph 1, where appropriate, provided that those family members have been transferred in accordance with this Regulation.

PT requests further clarification on the family reunification process and timing.

Paragraph 3

3. A Member State referred to in paragraph 1 shall receive an additional contribution of EUR [10 000] per applicant who has been transferred from another Member State and granted international protection for the implementation of integration measures.

PT does not support this drafting suggestion.

Paragraph 4

4. A Member State taking over responsibility for an applicant international protection or beneficiary of international protection referred to in paragraph 1 or a Member State as referred to in paragraph 2 shall receive an additional contribution of EUR [10 000] per person for whom the Member State can establish on the basis of the updating of the data set referred to in Article 10(d) of Regulation (EU) 603/2013 (Eurodac Regulation) that the person has left the territory of the Member State, on either a compulsory or voluntarily basis in compliance with a return decision or a removal order.

PT can support this drafting suggestion.

Paragraph 5

5. The Member State covering the cost of transfers referred to in paragraphs 1 and 2 shall receive a contribution of EUR [500] for each applicant of international protection or beneficiary of international protection transferred to another Member State.

PT can support this drafting suggestion.

Paragraph 6

6. The amounts referred to in this Article shall take the form of financing not linked to costs in accordance with Article [125] of the Financial Regulation.

PT can support this drafting suggestion.

Paragraph 7

7. The additional amounts referred to in paragraphs 1 to 5 of this Article shall be allocated to the Member States in their programmes provided that the person in respect of whom the contribution is allocated was, as applicable, effectively transferred to a Member State, effectively returned or registered as an applicant in the Member State responsible in accordance with Regulation (EU) 604/2013 [Dublin Regulation].

PT can support this drafting suggestion.

Paragraph 7

8. To effectively pursue the objectives of solidarity and fair sharing of responsibility between Member States within the limits of available resources, the Commission shall be empowered to adopt delegated acts in accordance with Article 32 to adjust, if deemed appropriate, the lump sums referred to in paragraphs 1, 3, 4 and 5 of this Article to take into account the current rates of inflation, relevant developments in the field of transfer of applicants for international protection and of beneficiaries of international protection from one Member State to another, as well as factors which can optimise the use of the financial incentive brought by the lump sums."

PT can support this drafting suggestion.

Article 34^a(New)

Review

In the event of legislative amendments to the Union legal framework regarding the matters referred to in paragraph (g) of Article 2 and Articles 16 and 17 of this Regulation, the Commission shall, where appropriate, make a proposal to amend this Regulation to ensure consistency with those legislative amendments, whilst respecting the legitimate expectations of recipients.

PT can support this drafting suggestion on a AMF Regulation review mechanism.

Nevertheless, **PT would like to see the decision-making method clarified.**

ROMANIA

RO welcomes the discussion paper on key provisions linked to CEAS proposals considering that this is much needed for the progress in the negotiation of the HA funds.

Generally speaking we appreciate the clearer text, the increase of the lump sums for certain categories of vulnerable persons and for their family members and the inclusion of the review mechanism for the future legislative developments.

However, when we look at the current overall picture (asylum and migration policy, general MFF, nego-box, etc.) we see many moving parts with an impact on HA Funds which calls for a cautious approach.

SPAIN

New recital.

Spain would support the inclusion of this new recital but deems necessary to wait Commission's new migration and asylum pact proposal.

Definition of resettlement

Spain would support this definition of resettlement but deems necessary to wait Commission's new migration and asylum pact proposal. Concerning letter (g) proposal of article 2, in order to avoid disagreements referred to definitions, Spain is of the opinion to keep the definition negotiated along with the EP in the Resettlement proposed Regulation.

Article 16.

As a general comment, Spain deems necessary to wait Commission's new migration and asylum pact proposal and -for this reason- upholds its scrutiny reserve referred to this article.

Spain does not support the bi-annual payment of lump sums and prefers that this payment will be done annually.

Spain finds the quantities established for the lump sums insufficient, although the increase established in Article 16.3 is a positive step.

Article 16.7. Spain supports the inclusion of updating mechanisms for the lump sums as long as it does not lead to their decrease.

Spain supports the inclusion of the following point within this article, in a similar fashion to Article 17. "The amounts referred to in this Article shall take the form of financing not linked to costs in accordance with Article [125] of the Financial Regulation"

Article 17

As a general comment, Spain deems necessary to wait Commission's new migration and asylum pact proposal and -for this reason- upholds its scrutiny reserve referred to this revised version of the article.

Spain reckons that the established lumpsums are insufficient.

Article 17.8. Spain supports the inclusion of updating mechanisms for the lump sums as long as it does not lead to their decrease

Article 34a)

As a general comment, Spain deems necessary to wait Commission's new migration and asylum pact proposal.

**Written comments submitted by Sweden on the amendments
proposed by the Croatian Presidency on article 16 and 17 (AMF)**

Please find below Sweden's written comments on the Croatian Presidency's proposed amendments in article 16, 17 and insertion of new recital/article in WK 3687/2020 INIT.

Sweden retains a scrutiny reservation on these articles and may have additional comments on the articles at a later stage.

- **General comment:** Given that the Pact on Asylum and Migration is to be presented by the Commission in a near future and considering that the Covid-19 pandemic will have a major impact on the EU budget in the next Multiannual Financial Framework 2021-2027, it is highly doubtful to put major emphasis on amending article 16 and 17 at this stage. However, in a spirit of constructive approach, please find below Sweden initial comments emphasizing general yet crucial aspects that must be kept in mind.

A new recital is inserted:

"In view of the fact that certain aspects of this Regulation relate to the current system of asylum in the Union, it is appropriate to provide for a review mechanism to ensure consistency with any future revision of that system. Consequently, in the event that the Union's asylum system is revised in a manner that could have an impact on the functioning of this Regulation, the Commission should present an appropriate proposal to amend this Regulation to the extent necessary."

- Sweden welcomes that such clarification is inserted in a recital. A review mechanism enabling future amendments of the AMIF regulation is a prerequisite to ensure consistency with the revised Common European Asylum System.

Article 2: Definition of 'resettlement' is replaced by the following:

"(g) 'resettlement' means the admission, following a referral from the United Nations High Commissioner for Refugees ('UNHCR'), of third-country nationals or stateless persons from a third country to which they have been displaced, to the territory of the Member States, and who are granted international protection and have access to a durable solution in accordance with Union and national law;"

- Sweden advocates that the definition of resettlement in the AMIF regulation shall correspond with the wording that has been agreed in the negotiations for a Union Resettlement Framework negotiations (*Proposal for a regulation of the EP and of the Council establishing a Union Resettlement Framework and amending Regulation (EU) No 516/2014 of the European Parliament and the Council*).
- The wording proposed in (g) corresponds to the latest version of the negotiated wording set in WK 4072/2019 and can thus be supported by Sweden.

Article 16 is replaced by the following:

"Resources for the Union Resettlement and humanitarian admission Framework"

1. Member States shall, in addition to their allocation calculated in accordance with point (a) of Article 11(1), receive every two years an additional amount of a lump sum of EUR [10 000] for each person admitted through resettlement.

2. Member States shall, in addition to their allocation calculated in accordance with point (a) of Article 11(1), receive every two years an additional amount based on a lump sum of EUR [6 000] for each person admitted through humanitarian schemes.

3. The lump sum referred to in paragraph 1 shall be increased to EUR [15 000] for each vulnerable person, from the following vulnerable groups, who has been admitted through resettlement: (a) women and children at risk; (b) unaccompanied minors; (c) persons having medical needs that can be addressed only through resettlement; (d) persons in need of emergency resettlement or urgent resettlement for legal or physical protection needs, including victims of violence or torture.

4. Where a Member State resettles a person belonging to more than one of the categories referred to in paragraphs 1, 2 and 3, it shall receive the lump sum for that person only once.

5. Where appropriate, Member States may also be eligible for lump sums for family members of persons referred to in paragraphs 1, 2 and 3 to ensure family unity.

6. The additional amounts referred to in paragraphs 1, 2 and 3 of this Article shall be allocated to the Member States every two years, for the first time in the individual financing decisions approving their national programme. Those amounts shall not be transferred to other actions under the national programme.

7. To take account of current inflation rates and relevant developments in the field of resettlement, and within the limits of available resources, the Commission shall be empowered to adopt delegated acts in accordance with Article 32 to adjust, if deemed appropriate, the lump sums referred to in paragraphs 1 and 2 of this Article, to take into account the current rates of inflation, relevant developments in the field of resettlement, as well as factors which can optimise the use of the financial incentive brought by the lump sums.

- Levels of contribution and other financial aspects must not be distinguished from the total expenditure level of the fund. All financial aspects in article 16 shall be discussed in the Council's MFF Working Group and not in the Ad Hoc WG/Counsellors Group. The central MFF negotiations must not be preempted.
- Sweden is a strong advocate for resettlement and welcomes different incentives that might encourage Member States to increase their resettlement. However, Sweden emphasizes that the budget for resettlement must be financed through re-prioritization within the Fund. No new funds should be added to this end.
- Sweden is in principle positive to the proposal that Member States may be eligible for lump sums for family members of resettled persons if it can be financed through re-prioritization within the Fund. No new funds should be added to this end.

- Furthermore, Sweden agrees that it shall not be possible to transfer amounts committed to resettlement to other actions defined in the AMIF regulation. However, Sweden prefers the original wording from the Commission in art 16.3 COM (2018) 471 which provides for more flexibility.
- Sweden does not support the deletion of all references to the Union Resettlement Framework given that it undermines the ongoing negotiations of Regulation (EU) No 516/2014.

Article 17 is replaced by the following:

"Resources to support the implementation of Regulation ... ~~/ [Dublin Regulation] /~~ for the transfer of applicants for international protection or of beneficiaries of international protection

1. With a view to implementing the principle of solidarity and fair sharing of responsibility and in the light of Union policy developments within the implementation period of the Fund, Member States shall receive, in addition to their allocation calculated in accordance with point (a) of Article 11(1), an additional amount based on a lump sum of EUR [10 000] for each applicant for international protection or beneficiary of international protection¹ transferred from another Member State.

2. Member States may also be eligible for lump sums for family members of persons referred to in paragraph 1, where appropriate, provided that those family members have been transferred in accordance with this Regulation.

3. A Member State referred to in paragraph 1 shall receive an additional contribution of EUR [10 000] per applicant who has been transferred from another Member State and granted international protection for the implementation of integration measures.

4. A Member State taking over responsibility for an applicant international protection or beneficiary of international protection referred to in paragraph 1 or a Member State as referred to in paragraph 2 shall receive an additional contribution of EUR [10 000] per person for whom the Member State can establish on the basis of the updating of the data set referred to in Article 10(d) of Regulation (EU) 603/2013 (Eurodac Regulation) that the person has left the territory of the Member State, on either a compulsory or voluntarily basis in compliance with a return decision or a removal order.

5. The Member State covering the cost of transfers referred to in paragraphs 1 and 2 shall receive a contribution of EUR [500] for each applicant of international protection or beneficiary of international protection transferred to another Member State.

6. The amounts referred to in this Article shall take the form of financing not linked to costs in accordance with Article [125] of the Financial Regulation.

7. The additional amounts referred to in paragraphs 1 to 5 of this Article shall be allocated to the Member States in their programmes provided that the person in respect of whom the contribution is allocated was, as applicable, effectively transferred to a Member State, effectively returned or

¹ The Presidency would envisage using the definitions in Article 2 of Regulation 516/2014.

registered as an applicant in the Member State responsible in accordance with Regulation (EU) 604/2013 [Dublin Regulation].

8. To effectively pursue the objectives of solidarity and fair sharing of responsibility between Member States within the limits of available resources, the Commission shall be empowered to adopt delegated acts in accordance with Article 32 to adjust, if deemed appropriate, the lump sums referred to in paragraphs 1, 3, 4 and 5 of this Article to take into account the current rates of inflation, relevant developments in the field of transfer of applicants for international protection and of beneficiaries of international protection from one Member State to another, as well as factors which can optimise the use of the financial incentive brought by the lump sums."

- General remark: Even though Sweden has nothing against the principle idea of the wording in paragraph 1-8, Sweden does not support the deletion of all references to the Dublin Regulation.
- Sweden understands that reference cannot be made to Dublin Regulation being revised within the revised CEAS given the stranded negotiations and the upcoming Pact on Asylum and Migration. Instead, reference should be made to the current Dublin Regulation. In line with the proposed new article 34a, a review mechanism may enable future amendments of the AMIF regulation to ensure consistency with the revised Common European Asylum System.
- In order to strive for coherency between art. 16 and 17, Sweden advocates the reinsertion of paragraph 17.8 in COM (2018) 471 stating that *"This funding shall not be used for other actions in the programme except in duly justified circumstances and as approved by the Commission through the amendment of the programme"*.
- Furthermore, levels of contribution and other financial aspects must not be distinguished from the total expenditure level of the fund. All financial aspects in article 17 shall be discussed in the Council's MFF Working Group and not in the Ad Hoc WG/Counsellors Group. The central MFF negotiations must not be preempted.

Article 34a: A new Article 34a is inserted

"Review

In the event of legislative amendments to the Union legal framework regarding the matters referred to in paragraph (g) of Article 2 and Articles 16 and 17 of this Regulation, the Commission shall, where appropriate, make a proposal to amend this Regulation to ensure consistency with those legislative amendments, whilst respecting the legitimate expectations of recipients. "

- Sweden supports the insertion of art. 34 a given that a review mechanism enabling future amendments of the AMIF regulation is a prerequisite to ensure consistency with the revised Common European Asylum System.

COMMISSION

Commission services² reply to the Presidency's proposals on Articles 16 and 17 of the Proposal for a Regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund, as set out in to the Council Working document 3687/2020 INIT.

The Commission services take note of the Croatian Presidency's proposals on the Articles 16 and 17 of the proposed Regulation establishing the Asylum and Migration Fund (AMF).

While we appreciate the intention of the Presidency to advance the negotiations on the AMF proposal, we consider that the discussions on Articles 16 and 17, including any potential amendments, are premature. The proposed amendments neither take account the current budgetary situation nor the overall policy context.

Firstly, we note that such a proposal would have consequences on aspects that are subject to horizontal MFF negotiations, such as the AMF financial envelope. Moreover, the Presidency's proposals disregard the overall reduction of the MFF envelope, which in itself implies a lowering of the ambition in the achievement of the AMF objectives including on the number of resettlements and transfers of applicants and beneficiaries of international protection. This in turn would lower the EU's overall resettlement and transfers potential, and ambitions even further.

Secondly, the Presidency's proposals come before the presentation of the Commission's New Pact on Asylum and Migration, pre-empting any new policy orientations in this context. The proposals accompanying the new Pact on Asylum and Migration will provide a vital input on the way forward on the funding support provided by AMF in Articles 16 and 17. This does not exclude a possibility of reviewing AMF provisions in the future once the legal proposals accompanying the New Pact on Asylum and Migration are adopted. In this regard, the Presidency proposal to have a review clause in the AMF is well noted.

In view of the above, the Commission plans to present a way forward for the Asylum and Migration Fund, including on its Articles 16 and 17. Taking into account these considerations, we look forward to continuing our concerted efforts in advancing the negotiations on the AMF proposal.

² This reply has been drawn up by Commission services and does not engage the Commission as an institution.



Council of the European Union
General Secretariat

**Interinstitutional files:
2018/0248(COD)**

Brussels, 13 May 2020

WK 4967/2020 INIT

LIMITE

**JAI
FRONT
ASIM
MIGR
CODEC**

WORKING PAPER

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Delegations
N° prev. doc.:	WK 3687/20
N° Cion doc.:	10153/18 + ADD 1
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund (CEAS provisions (Article 16 and 17)) – Comments from the delegations

Following the request for contribution (CM 2027/20), delegations will find attached a compilation of replies received from Member States on the abovementioned subject.