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## WORKING DOCUMENT

From:	Presidency
To:	Delegations
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Subject:	APR & AMMR PRESENTATION ON SCENARIOS - EXPLANATORY NOTE

Delegations find attached an explanatory note on figures in AMMR and APR in view of the JHA Counsellors meeting on 22 May 2023.

## APR & AMMR PRESENTATION ON SCENARIOS EXPLANATORY NOTE

This note and the presentation of scenarios focus on key figures that are under discussion in the current negotiations on the AMMR and APR, namely:

- (1) The **minimum number for relocations** (Article 7c(2) AMMR)
- (2) The **minimum amount for direct financial contributions** (Article 7c(2) AMMR)
- (3) The **adequate capacity at any given moment at Union level** (Article 41ba APR)
- (4) and, possibly, an **annual cap** in relation to the adequate capacity (Article 41bb(1) APR)

To guide Member States in setting those figures in both Regulations, different degrees of ambition can be considered. To assess the overall balance between solidarity and responsibility, it is important to take also into account elements such as cessation of responsibility for applications rejected in the border procedure.

### Figures in the AMMR

In the current draft, the **numbers in the AMMR are the minimums** that the Commission must, as a rule, include in its annual recommendation which identifies the solidarity needs for its upcoming year. The Commission recommendation may identify a higher number for solidarity contributions than the legal minimum numbers in the text of the AMMR. It should be recalled that Member States have full discretion as regards the choice of the solidarity contributions and will never be obliged to contribute beyond their fair share. Furthermore, the Member State can also offer alternative measures (e.g., staff or equipment). In that case, the concrete value of those measures will be established (monetised) and counted as direct financial contributions as a way to measure compliance with the mandatory fair share.

In relation to minimum number for relocations and amount for financial contributions, the figures provided include various scenarios for the number that could be included in the AMMR depending on the level of ambition. The data set also includes the raw data that serve to calculate the fair-share for each Member State in accordance with the distribution key in the compromise text, i.e. GDP and population. The data for each Member State's GDP and population used is the Eurostat data for 2022. The formula, based on the size of the population (50% weighting) and the EU GDP (50% weighting), gives each Member State's fair share expressed as a percentage.

$$\text{fair share of any MS} = (0,5 \times \text{population share}) + (0,5 \times \text{GDP share})$$

with  $\text{population share} = \frac{\text{population of the Member State}}{\text{population EU27 (*)}}$

and  $\text{GDP share} = \frac{\text{GDP of the Member State}}{\text{GDP EU27 (*)}}$

(\*) based on the assumption that two Member States have decided to exercise of specific rights set out in the relevant Protocols and other instruments

If, for example, the fair share of Member State X is 10%, this percentage will be used to calculate the contribution that Member State X should pledge on an annual basis *in the hypothetical situation where the Commission recommendation would perfectly match the minimum number for relocations set in the Regulation*. The contribution is calculated by applying the percentage (here, 10%) to the various values used for the scenarios for the minimum number for relocations and amount for financial contributions.

As regards the minimum amount for financial contributions, this could be set at a level deemed equivalent to the relocation of a person. For indicative purposes, two possible amounts are presented in the scenarios.

### Figures in the APR

In the current draft, adequate capacity to carry out the asylum and return border procedures is defined as 'adequate capacity at any given moment'. The adequate capacity figures are used for proper planning of infrastructure and personnel. This means that Member States are required to set up the necessary capacity in infrastructure and personnel required at national level to examine a specific number of applications at any given moment on an inflow-outflow basis. The figures provided for the adequate capacity at Union level include various scenarios for the number that could be included in the APR depending on the level of ambition.

As regards the adequate capacity of a Member State at national level, it will be calculated by multiplying the adequate capacity at Union level by the sum of irregular crossings of the external border, arrivals following search and rescue operations and refusals of entry at the external border in the Member State concerned during the previous three years, and dividing the result thereby obtained by the sum of irregular crossings of the external border, arrivals following search and rescue operations and refusals of entry at the external border in the Union as a whole during the same period according to the latest available Frontex and Eurostat data.

#### **adequate capacity of a Member State =**

$$\text{adequate capacity at Union level} \times \frac{\text{IBC incl. SAR arrivals + refusals of entry in the MS in the last 3 years}}{\text{IBC incl. SAR arrivals + refusals of entry in the Union as a whole in the last 3 years}}$$

The reference years used in the figures are 2020, 2021, and 2022. The formula gives the share of each Member State expressed as a percentage. If, for example, the share of Member State X is 7%, this percentage is used to calculate the number of applications in the border procedure that Member State X should be able to process at any given moment (= the adequate capacity of Member State X). The adequate capacity of Member State X is thus calculated by applying the percentage (here, 7%) to the reference number to be included in the APR.

A number of delegations have asked that the APR text contain an annual cap to the number of applications a Member States would be required to process in the border procedure per year. Whatever political decision is made with regard to an annual cap, the most logical way to anchor that annual cap in the APR text is to multiply the adequate capacity of a Member State by a factor to be determined, geared to the efficiency expected from Member States in processing asylum applications.