

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
doc. WK 7022/20 (CEAS provisions)**

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AUSTRIA

- **New Recital: Can be accepted.**
- **Art. 2(a) and (b):** the definition „applicant for international protection“ and „beneficiary of international protection“ **is seen positive**, because now they are aligned with the asylum procedure and qualification directive currently in place. This is useful in order to ensure coherence and to avoid contradicting provision between this legal act and the CEAS legal acts.
- **Art. 2(e):** the definition of „humanitarian admission”: In principal, **it can be supported**. It is the same wording as in the respective provision in the draft of the Resettlement-Regulation; There is still no agreement on the corresponding provision in the proposal for the Resettlement-Regulation. Against the background of the announced asylum and migration pact, it is currently not clear whether and which further changes in content are still proposed in the Resettlement-Regulation. We ask for a harmonized definition in both legal files
- **Art. 2(g):** the definition of “Resettlement”: The proposed additions to make sure that persons who are resettled under different status are also included, is **seen positive**. See comment on Art. 2 (e).
- **Art. 16, Para. 1:** It is unclear, why the MS should receive their sums for resettled persons only every two years. **AT kindly asks for further clarification.**
- **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:** In general, AT is critical about already anticipating a possible allocation mechanism 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 for maneuver in terms of increasing the amounts through delegated acts.**

Just like SE, NL and ES we have concerns about the timing of the discussion regarding Article 16 and 17 and would prefer having this discussion at a later state when we have more clarity regarding the new Pact on Asylum and Migration as well as the MFF 2021-2027.

- **Art. 34a:** The proposed new changes **can be accepted.**

CZECHIA

New recital

The Czech Republic can agree with the proposed wording. However, for the sake of clarity, the second sentence “Union’s asylum system” should be substituted with “Common European Asylum system” as in the first sentence.

Art. 2 – Definitions

The Czech Republic calls for including a definition of the term “effectively resettled” in the regulation. In the current period, the absence of the definition causes interpretational troubles as it is not clear when exactly the person is considered “effectively resettled”.

Art. 16

Without prejudice to ongoing negotiations, the Czech Republic considers relocation and resettlement mechanisms based on a voluntary participation. The voluntary nature of participation in these schemes should be therefore enshrined in the concerned articles.

Art. 16, para 4

Does the used word “resettle” also include persons admitted under humanitarian admission? More specific wording would be welcome.

Art. 16, para 5

The Czech Republic agrees with the proposed wording “lump sums” → “amounts”, similarly for other paras.

Art. 16, para 5a:

The Czech Republic suggest to refer to a concrete letter of Article 125 of the Financial Regulation. We suggest the following drafting: “The amounts referred to in this Article shall take the form of financing not linked to costs in accordance with Article 125, **para 1 letter a) num. i)** of the Financial Regulation.”

Art. 16, para 6

The Czech Republic does not support the suggested change. This point requires broader clarification. Art. 16, para 5a and also Art. 17, Para 6 refer to Art. 125 of the Financial Regulation (2018/1046) which under para 1, letter a) states “financing not linked to the costs of the relevant operations”. If all amounts referred to in Art. 16 and 17 are received based on this letter, then they cannot be linked to costs of an operation. Their usage is not reported, neither monitored as it is not linked to any costs. And neither it is possible to use it for actions in the programme. The wording “shall not be used for **other actions** in the programme” implies that it shall be used for some “primary actions” which are other than other. However the main principal of the article 125, para 1 is that the amounts are not linked to any concrete costs. MS can use it for any purpose or it can just become a general income of a state budget which theoretically refunds previous expenditures that the MS had with the resettlement and it should not be linked with the programme nor with any action/operation. The Czech Republic therefore requests a clarification of the procedure, of the possible usage of amounts and of the reporting and monitoring conditions planned by the COM.

Art. 17, para 2

Para 2 states “Member states may be eligible for amounts for family members”, the newly added para 2a, however, stipulates that “Member states shall receive”. The Czech Republic requests clarification whether the different wording is intentional. And if so, what is the reasoning?

Art. 17, para 2a

The Czech Republic would appreciate direct reference to the definition of a “beneficiary of international protection” in the text.

Art. 17, para 3:

Similarly to the abovementioned issue, based on Art. 125 of the Financial Regulation, none of the amounts in Art. 17 is linked to costs. Since the amounts are not linked to costs, they cannot be used for any given purpose as they will not be reported nor monitored. Hence, stating that the amount is to be used for “implementation of integration measures” does not bring any clarity to the text. The Czech Republic requests clarification on the expected procedure and assessment of accordance with Art. 125, para 1, letter a) of the Financial Regulation?

Art. 17, para 5

With respect to the ongoing negotiations, the Czech Republic suggest the number “500” in para 5 with “XXXX”, similarly to other paras.

Art. 17, para 6

The Czech Republic suggest to refer to a concrete letter of Article 125 of the Financial Regulation. We suggest the following drafting: “The amounts referred to in this Article shall take the form of financing not linked to costs in accordance with Article 125, **para 1 letter a) num. i)** of the Financial Regulation.”

Art. 17, para 7

The Czech Republic can support this amendment.

Art. 34a

The Czech Republic considers the recital sufficient.

FINLAND

General remarks

- Finland would like to thank the Presidency for continuing the efforts regarding articles 16 and 17 and proceeding with the preparations for the future Asylum and Migration Fund.
- However, given the fact that the New Pact on Asylum and Migration is still to be published, we ought to be cautious not to preempt it by the Fund Regulation.
- Furthermore, it has to be acknowledged that the availability of funding for increased amounts for articles 16 and 17 is tightly interlinked with the upcoming MFF agreement.

New Recital

- We can support the wording in the new recital.

Article 16

- The Presidency has replaced the amounts (i.e. numbers) with “XXXX”. We think that this change is justified until the overall agreement on MFF has been reached.
- The Presidency has also replaced the term “lump sum” with “amount” in accordance with the Financial Regulation. We think that this change is justified.

Point 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 amount for that person for one category only ~~one~~.”

- We think that this change is justified and can support this.

Point 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. The 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. The amounts referred to in paragraphs 1, 2 and 3 may be included in the payment applications to the Commission provided that the person in respect of whom the amount is allocated was effectively resettled or admitted.”

- We can accept this change.

Point 6a

“Member States shall keep the information necessary to allow the proper identification of the persons resettled or admitted and of the date of their resettlement or admission.”

- We can support this amendment. However, taken into consideration the GDPR, we think that this should be further clarified, for example regarding the period of how long the Member States are expected to keep the required information.
- We would still like to have more clarification for interpretation of the definition of **family members (art. 16.5)**. The definition of a family member should be clarified as it is directly linked to eligibility for additional amounts.
 - 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.

Article 17

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

- We can accept this change.

Point 2a

"Member States shall receive, in addition to their allocation calculated in accordance with point (a) of Article 11(1), an additional amount of EUR [XXXX] for each beneficiary of international protection and their family members transferred from another Member State."

- We have a positive scrutiny on this. However, we would like to hear further information concerning this addition. Furthermore, the envelope for these additional amounts is depending on the size of the Thematic Facility.

Point 3

"Member States referred to in paragraph 2a shall also receive the additional amount referred to in this paragraph for integration measures."

- We would like to hear further information also on this addition. Furthermore, it is important to notice that the envelope for these additional amounts is depending on the size of the Thematic Facility.
- Referring to Art 17 of **Dublin Regulation** raises some questions. As we know, that provision cannot be understood as a specific legal basis for relocation as a solidarity measure but, rather, it has been subsequently agreed that it can - through a flexible interpretation - apply also in these situations. Therefore, referring to Art 17 risks being ambiguous, because also other situations than relocation may fall under that provision - surely those other situations are not meant to be covered by Art 17 of AMF Regulation? This should be further clarified.

Furthermore, the definition of a family member is still unclear and needs to be specified.

FRANCE

Point 3 : Lien FAMI-RAEC

Remarques horizontales :

- *Nous souhaitons rappeler à la présidence que, nonobstant l'équilibre général du cadre financier pluriannuel, les montants attribués aux forfaits pour les réinstallations et les transferts doivent demeurer suffisamment incitatifs pour constituer un outil utile du prochain régime d'asile européen commun.*
- *Il s'agit de politiques volontaires, portant des enjeux de solidarité qui doivent continuer d'être portés par l'Union européenne.*
- *Les sommes attribuées doivent être à la hauteur de ces enjeux et la fixation des montants dans le règlement doit demeurer une priorité.*

- *Nous souhaiterions que le remplacement de « somme forfaitaire » par « montant » puisse être explicité, en référence au règlement portant dispositions communes.*
- *À première vue, elle ne nous semble pas nécessaire et constitue un changement potentiellement important par rapport au cadre actuel.*
- *Nous émettons une réserve d'examen sur cette question, dans l'attente de l'explication du service juridique du Conseil.*

- *Nous émettons des réserves quant à l'ajout aux articles 16 et 17 d'une nouvelle mention relative à la conservation des informations liées à l'identification et la date de transfert/réinstallation.*
- *Bien qu'elle ne pose pas de difficulté sur le fond, nous souhaitons avoir davantage de précisions, notamment le type d'information à conserver et la définition sous-tendue par l'expression : « véritable identification ».*
- *Nous examinerons la disposition quand elle sera formulée dans des termes plus précis et ancrés juridiquement.*

1. **Nouveau considérant :**

- *Dans la continuité de la position exprimée, nous soutenons la formulation de ce considérant visant à inscrire dans ce règlement la perspective d'évolution du régime d'asile européen commun.*

2. **Article 34a**

- *En revanche nous continuons de nous interroger sur la nécessité de traduire cette même perspective dans un article, car cette disposition relève davantage du droit d'initiative de la Commission.*
- *Nous estimons que la référence portée par le nouveau considérant susmentionné est proportionnée et suffisante.*

3. **Article 2: Définitions**

- *Nous continuons de soutenir largement les définitions proposées, qui sont équilibrées et portent les changements nécessaires à l'adaptation du règlement au régime d'asile européen commun actuel.*
- *Nous souhaitons toutefois rappeler notre proposition de modification à la définition d'admission humanitaire, qui nous semble toujours nécessaire :*

*“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...”.*

4. **Article 16 : Ressources pour les réinstallations et les admissions humanitaires**

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

- *Nous pouvons soutenir l'amendement nouveau, sans en faire un point de blocage si la formulation initiale était préférée.*

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

➤ *Nous maintenons notre soutien à une formulation flexible autorisant le transfert au sein du programme national dans des circonstances justifiées et sur approbation de la Commission.*

➤ *Cependant, nous souhaiterions modifier cette phrase afin d'y préserver la souplesse introduite par le règlement portant dispositions communes sur les transferts au sein des fonds ainsi :*

« The funding shall not be used for other actions in the programme beyond 5 % except in duly justified circumstances and as approved by the Commission through the amendment of the programme. »

➤ *Concernant l'ajout de la présidence allemande quant à l'inclusion des forfaits dans la demande de paiement, sans s'y opposer, nous ne comprenons pas l'objectif de cet amendement dans la mesure où c'est la modalité de paiement qui prévaut actuellement, les cas spéciaux (réinstallation, transfert) faisant partie intégrante des demandes annuelles de paiement. Nous souhaiterions donc obtenir des précisions sur l'objectif de cette modification.*

5. Article 17 : Ressources pour le transfert de demandeurs ou bénéficiaire d'une protection internationale

a. Changement de titre afin de réintégrer les bénéficiaires de protection internationale parmi les personnes éligibles et ajout d'un article 17(2a) visant, de manière séparée, à introduire un forfait pour le transfert de bénéficiaires de la protection internationale.

➤ *Nous saluons la réintégration des bénéficiaires de protection internationale parmi les personnes éligibles au forfait relatif aux transferts, dont les modalités sont détaillées dans un nouvel article 17 (2a).*

➤ *Ces modifications répondent parfaitement à notre demande formulée lors de la consultation écrite du 26 juin.*

- *La France tient à rappeler qu'une réforme du règlement Dublin III demeure nécessaire, et que le futur instrument devra notamment prévoir l'inclusion des bénéficiaires de la protection internationale.*
- b. Article 17(1) prévoyant un forfait de [XXXX] euros accordé par demandeur d'asile ou bénéficiaire d'une protection internationale transféré par un État membre au titre de l'article 17 du règlement Dublin
- *Nous souhaitons rappeler notre plein soutien à la référence à l'article 17 du règlement Dublin relatif à la clause de souveraineté, afin de fonder le financement des transferts des demandeurs d'asile.*
- c. Article 17(3) octroyant un forfait supplémentaire de [XXXX] euros par personne transférée obtenant une protection internationale dans l'Etat d'accueil et pour les bénéficiaires de protection internationale transférés afin de financer les mesures d'intégration
- *Nous soutenons l'initiative de la présidence visant à maintenir le financement des mesures d'intégration pour les demandeurs d'asile obtenant une protection internationale dans l'Etat de transfert et à sa proposition d'élargir cette clause aux bénéficiaires de protection internationale transférés.*
- d. Article 17(4) octroyant un forfait supplémentaire de [XXXX] euros par personne transférée et ayant effectivement quitté le territoire de l'Etat d'accueil de manière forcée ou volontaire
- *Nous ne sommes pas en faveur d'un financement forfaitaire additionnel pour le retour effectif d'un demandeur d'asile transféré puis débouté.*
- *En effet, nous estimons que cette mesure pose un réel risque à la fois d'attraction de flux irréguliers de personnes qui ne sont pas en besoin de protection, et un risque de création de nouveau flux secondaires entre les États membres.*

- *Une telle mesure encourage de fait le transfert de demandeurs d'asile, qui ne sont pas en besoin manifeste de protection internationale dans d'autres États membres, qui auront ensuite la charge de leur éloignement.*
- *Or, à ce stade, et compte tenu d'une capacité collective encore limitée des États européens à effectivement éloigner vers les pays d'origine, une telle mesure risque d'augmenter significativement le nombre d'étrangers pour lesquels un transfert aura été opéré sans perspective de protection, mais également sans garantie d'éloignement.*
- *Dès lors, l'existence d'un tel financement et d'une telle pratique risque de s'avérer contre-productifs, en favorisant un système facilitant le transfert intra-européen de publics dont la seule perspective serait l'éloignement, alors que l'effectivité du retour demeure limitée.*
- *Une fois les transferts effectués, le délai de la procédure d'éloignement va accroître le risque de fuite, facilitant les mouvements secondaires, qui pèsent déjà sur un régime de Dublin III actuellement dysfonctionnel. En outre, l'inclusion d'un tel mécanisme nécessiterait d'harmoniser à l'échelle européenne le décompte des éloignements effectifs, qui diffère encore largement, dans les données EUROSTAT.*

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

- *Nous soutenons l'octroi d'un forfait de 500 euros par personne pour l'organisation du transfert.*
- *Nous pourrions cependant accepter 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 (7) spécifiant les modalités d'attribution des forfaits de transfert

- *Nous continuons de nous opposer à la rédaction de l'article qui propose un financement unique sur la base des transferts effectués et ne prévoit aucun préfinancement au profit des transferts. 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.*

➤ *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].”

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

➤ *Nous soutenons en outre l'ajout de la présidence sur les transferts au sein du fonds, qui reprend la proposition initiale de la Commission. Cela permet de conserver une flexibilité dans la mise en œuvre des programmes.*

➤ *Cependant, nous souhaiterions modifier cette phrase afin d'y préserver la souplesse introduite par le règlement portant dispositions communes sur les transferts au sein des fonds ainsi :*

« *The funding shall not be used for other actions in the programme beyond 5 % except in duly justified circumstances and as approved by the Commission through the amendment of the programme.* »

HUNGARY

Hungary supports the resumption of negotiations on Articles 16 and 17, which were not covered by the partial general approach, with a view to the adoption of the new AMIF as soon as possible. At the same time, it is essential for Hungary that the draft regulation aligns with the current asylum legal framework and does not prejudge policy decisions concerning reforms. However, as several Member States have pointed out, these conditions are not met in the current draft, in particular because of the following provisions:

- Article 17 (1) and (2) open up the scope of eligible transfers to a very wide range by making a general reference to Article 17 of the Dublin III Regulation.
- the additions to the definitions in Article 2 also make it possible to finance additional activities similar to resettlement
- the proposal provides additional funding for integration ((17(3)) and for resettlement of vulnerable people (16(3)), which are unreasonable and burdens the fund extremely.

We find it problematic that the relocation of beneficiaries of international protection and their family members has again become eligible for support according to the new text. In addition, we contain to reject the support of relocation of applicants for international protection if the person is not eligible for protection, as it could be an extremely strong pull factor for illegal migration. The new recital states that the legal framework of the current CEAS applies to resettlement or to relocation, which can only be done on a voluntary basis, yet we consider it important to make this clear in the text, as well. Accordingly, we propose to insert the word "voluntary" in the relevant provisions of Articles 16 and 17: Article 16 (1) and (2) („voluntary resettlement”; „voluntary humanitarian admission”) and in Article 17 (1), (2), (2a) and (4) („voluntarily transferred”; „voluntarily taking over responsibility”).

In the absence of knowledge of the exact, numerical framework, it is logical that the specific amounts have not been indicated, but it is very important that we renegotiate these amounts and not just re-insert them automatically, especially that certain types of support (e.g. an additional amount for integration) can burden AMIF's budget to such an extent that its resources may be exhausted.

Overall, we are concerned that we would place a disproportionate emphasis on the form of solidarity achieved through resettlement and relocation under this regulation and we would spend an extraordinary amount of EU support on all of this, based on the amounts previously proposed which could jeopardize the adequate funding of other solidarity instruments or other solutions. At MFF level no decision has yet been taken on the level of the Fund's resources nor on the fact that 30 or 40% of the Fund's resources will be available for thematic facility so it is too early to advance the grants provided for activities in Articles 16 and 17.

A year ago, Hungary could not support the partial general approach and we have a strong negative scrutiny reservation on the current proposal, as well.

ITALY

Article 2 : Definitions

Reservation on point b) in connection with the future CEAS reform. In general, IT does not support the inclusion of beneficiaries in a transfer system similar to the one currently provided for by the Regulation no. 604/2013.

Namely, the definition is supported in relation to article 16, whereas a reservation is raised in connection with article 17.

Article 16 : Resources for Resettlement and humanitarian admission

Para. 1, 2, 3: The deletion of figures between square brackets is not supported. In any event, square brackets clearly indicate the provisional nature of the concrete amounts therein. Keeping the amounts would set at least a reference basis for negotiation and testify to the relevance attributed to the instruments concerned (resettlement, relocation, etc.).

Owing to this deletion, a reference amount may be set at whatever level, presumably insufficient to make the specific tools attractive.

Para. 4: the clarification is acceptable.

Para 5a: scrutiny reservation. The relevant CLS explanation in writing would be useful.

Para. 6: scrutiny reservation. The amendment doesn't take into account that considerable expenses are often faced in relation to beneficiaries included in resettlement/humanitarian admission schemes, who decide to withdraw shortly before their concrete transfer. Therefore, a mitigation should be foreseen for similar cases, whereas the proposed wording is much too strict.

Para. 6a: the addition is acceptable provided that a duration of the obligation be foreseen, taking into account the general rules concerning data protection.

Article 17: Resources for the transfer of applicants for international protection or of beneficiaries of international protection

Para. 1: same as article 16.1, 16.2, 16.3 (see above) in relation to the deletion of concrete amounts. Besides, IT supports the reinstatement of the first two lines of the paragraph.

Para. 2: scrutiny reservation in relation to 'amounts' instead of 'lump sum'.

Para. 2a: substantial reservation in relation to the future CEAS reform concerning the Dublin system.

Para. 3: positive evaluation with regard to integration measures. The additional wording is connected to para. 2a and thus a reservation is also raised on this point.

Para. 4: this paragraph is positively evaluated.

Para 7a: the addition is acceptable provided that a duration of the obligation be foreseen, taking into account the general rules concerning data protection.

Para. 8: reservation in relation to para. 2a (see above) and replacement of 'lump sums'.

Article 34a: Review

Supported

ROMANIA

With a view to Presidency communication on the proposal for a Regulation establishing the Asylum and Migration Fund – CEAS provisions, RO expresses its position as it follows:

For obtaining an agreement and to advance within the negotiation process, we agree with the revisions proposed by the DE PRES regarding the new recital, articles 2, 16 and 34a.

Regarding article 17 we express our agreement of principle for the introduction of beneficiaries of international protection, but having in mind that the current Dublin Regulation does not stipulate this notion, only the notion of applicant of international protection, we propose not to make a direct link to the Dublin Regulation. Also, the concrete amounts must be proposed.

As a general observation, we consider that the revisions proposed must take into consideration the current CEAS legislation package, aspect which has been also reported by the COM, but, at the same time, to have a comprehensive approach for the migration management and to prevent secondary movements at European level.

SPAIN

WRITTEN COMMENTS ON PROPOSAL FOR A REGULATION ESTABLISHING THE AMF (WK 7022/2020)

PRESIDENCY TEXT PROPOSALS	SPANISH COMMENTS
<i>New Recital is inserted</i> "In view of the fact that certain aspects of this Regulation relate to the current <u>Common European Asylum System</u> 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."	As a general comment, Spain deems necessary to wait Commission's new migration and asylum pact proposal. In relation to Presidency proposal on CEAS provision, Spain does not understand the reasons and timing of this proposal given the consequences of the coronavirus on 2021-2027 MFF, EU pending negotiations and national financial context. In any case, Spain reckons that the following wording is more appropriate: "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 shall present an appropriate proposal to amend this Regulation to the extent necessary." This amended wording would be in line with new Article 34a.
<i>Article 2: Definitions</i> Definition of 'applicant for international protection' is replaced by the following: <u>"(a) 'applicant for international protection' means an applicant as defined in point (c) of Article 2 of Directive 2013/32/EU;"</u> Definition of 'beneficiary of international protection' is replaced by the following: <u>"(b) 'beneficiary of international protection'</u>	As a general comment, Spain deems necessary to wait Commission's new migration and asylum pact proposal. In relation to Presidency proposal on CEAS provision, Spain does not understand the reasons and timing of this proposal given the consequences of the coronavirus on 2021-2027 MFF, EU pending negotiations and national financial context. In relation to letter a) replacement, Spain could accept it. In relation to letter b) replacement, Spain could

<u>within the meaning of point (b) of Article 2 of Directive 2011/95/EU;</u>" Definition of 'humanitarian admission' is replaced by the following: <u>"(e) 'humanitarian admission' means the admission, following, where requested by a Member State, a referral from the European Asylum Support Office, the UNHCR, 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 are granted international protection or a humanitarian status under national law that provides for rights and obligations equivalent to those of Articles 20 to 34 of Directive 2011/95/EU for beneficiaries of subsidiary protection"</u> 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, <u>or any other status which gives them similar rights and benefits under Union and national law,</u> and have access to a durable solution in accordance with Union and national law;	accept it. In relation to letter e) replacement, Spain could accept it. 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 with the EP in the Resettlement proposed Regulation.
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 000XXXX] for each person admitted through resettlement. 2. Member States shall, in addition to their allocation calculated in accordance with point	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. In relation to Presidency proposal on CEAS provision, Spain does not understand the reasons and timing of this proposal given the consequences of the coronavirus on 2021-2027 MFF, EU pending negotiations and national financial context. As to the present proposal, Spain would like to regain the brackets for the whole Article 16. In addition to it,

(a) of Article 11(1), receive every two years an additional amount based on a lump sum of EUR [6 000 XXXXX] for each person admitted through humanitarian admission schemes. 3. The lump-sum amounts referred to in paragraphs 1 and 2 shall be increased to EUR [15 000 XXXXX] 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. 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 amount for that person for one category only one. 5. Where appropriate, Member States may also be eligible for the respective lump-sums amounts for family members of persons referred to in paragraphs 1, 2 and 3 to ensure family unity. 5a. 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. 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. The 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. <u>The amounts referred to in paragraphs 1, 2 and</u>	in order to avoid disagreements referred to resettlements; Spain prefers maintaining the original COM drafting of this Article between brackets until an agreement has been reached with the EP in the Resettlement proposed Regulation. Spain does not support the bi-annual payment of amounts and prefers that this payment will be done annually. Spain regards positively the deletion of any indicative quantity of amounts in Article 16. Concerning changes proposed in paragraph 6 of Article 16, Spain would like the Presidency and/or the Commission to clarify if the foreseen approval by the Commission is a novelty compared to the current AMIF Regulation. Spain would accept the responsibility to keep the information of resettled and admitted envisaged in article 16.6.a)
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<u>3 may be included in the payment applications to the Comission provided that the person in respect of whom the amount is allocated was effectively resettled or admitted.</u> <u>6a Member States shall keep the information necessary to allow the proper identification of the persons resettled or admitted and of the date of their resettlement or admission.</u> 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 <u>amounts</u> 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 <u>those amounts</u> lump sums.	
Article 17 Article 17 is replaced by the following: <i><u>"Resources for the transfer of applicants for international protection or of beneficiaries of international protection"</u></i> 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 [40 000 XXXXX] for each applicant for international protection or beneficiary of international protection¹ transferred from another Member State in accordance with Article 17 of Regulation (EU) 604/2013/ [Dublin Regulation]. 2. Member States may also be eligible for <u>amounts</u> lump sums for family members of	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. In relation to Presidency proposal on CEAS provision, Spain does not understand the reasons and timing of this proposal given the consequences of the coronavirus on 2021-2027 MFF, EU pending negotiations and national financial context. As to the present proposal, Spain would like to regain the brackets for the whole Article 17. In addition to it, Spain does not accept any of the changes proposed by the Presidency being coherent with the interrelation among AMF and CEAS, and given the next COM launching of a new Pact on multiple questions (asylum, return, border management,...), and thus funding for any sharing scheme. Spain regards positively the deletion of any

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

persons referred to in paragraph 1, where appropriate, provided that those family members have been transferred in accordance with Article 17 of Regulation (EU) 604/2013/ [Dublin Regulation] this Regulation. <u>2a Member States shall receive, in addition to their allocation calculated in accordance with point (a) of Article 11(1), an additional amount of EUR [XXXX] for each beneficiary of international protection² and their family members transferred from another Member State.</u> 3. A Member State referred to in paragraph 1 shall receive an additional <u>amounts</u> of EUR [10 000XXXXX] per applicant who has been transferred from another Member State and granted international protection for the implementation of integration measures. <u>Member States referred to in paragraph 2a shall also receive the additional amount referred to in this paragraph for integration measures.</u> 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 000XXXXX] 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 and <u>2a</u> 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.	indicative quantity of amounts in Article 17. However, there is a quantity that remains in Article 17.5 and Spain upholds its deletion in line with the rest of quantities. Concerning changes proposed in paragraph 7 of Article 17, Spain would like the Presidency and/or the Commission to clarify if the foreseen approval by the Commission is a novelty compared to the current AMIF Regulation.
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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 amount 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]. The 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. <u>7a. Member States shall keep the information necessary to allow the proper identification of the persons transferred and of the date of their transfer.</u> 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 amounts lump sums referred to in paragraphs 1, 2a 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 those amounts lump sums.	Spain would accept the responsibility to keep the information of transfers envisaged in article 17.7.a)
Article 34a <i>A new Article 34a is inserted:</i> "Review In the event of legislative amendments to the Union legal framework on the Common European Asylum System 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."	As a general comment, Spain deems necessary to wait Commission's new migration and asylum pact proposal. In relation to Presidency proposal on CEAS provision, Spain does not understand the reasons and timing of this proposal given the consequences of the coronavirus on 2021-2027 MFF, EU pending negotiations and national financial context.



Council of the European Union
General Secretariat

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CONTRIBUTION

From:	General Secretariat of the Council
To:	Delegations
N° prev. doc.:	WK 7022 2020 INIT
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Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund - CEAS provisions

Following the informal videoconference of the members of JHA Counsellors on Financial instruments on 1 July 2020 delegations will find in Annex a compilation of comments received from Member States on the above-mentioned subject.