



Plenary sitting

A9-0127/2023

5.4.2023

*****I**
REPORT

on the proposal for a regulation of the European Parliament and of the Council
addressing situations of crisis in the field of migration and asylum
(COM(2020)0613 – C9-0308/2020 – 2020/0277(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Juan Fernando López Aguilar

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council
addressing situations of crisis in the field of migration and asylum
(COM(2020)0613 – C9-0308/2020 – 2020/0277(COD))**

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2020)0613),
 - having regard to Article 294(2) and Article 78(2)(c),(d) and (e) and Article 79(2)(c) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0308/2020),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Italian Senate and the Hungarian Parliament asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the opinion of the European Economic and Social Committee of 30 April 2021¹,
 - having regard to the opinion of the Committee of the Regions of 19 March 2021²,
 - having regard to Rules 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0127/2023),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

Title 1

¹ OJ C 155, 30.4.2021, p. 58.

² OJ C 175, 7.5.2021, p.32.

Text proposed by the Commission

Proposal for a
REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
addressing situations of crisis **and force
majeure** in the field of migration and
asylum
(Text with EEA relevance)

Amendment

Proposal for a
REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
addressing situations of crisis in the field of
migration and asylum
(Text with EEA relevance)

Amendment 2
Proposal for a regulation
Recital 1

Text proposed by the Commission

(1) The Union, in constituting an area of freedom, security and justice, should ensure the absence of internal border controls for persons and frame a common policy on asylum, **immigration** and external border control, based on solidarity between Member States, which is fair towards third-country nationals.

Amendment

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

Amendment 3
Proposal for a regulation
Recital 2

Text proposed by the Commission

(2) To this end, a comprehensive approach is required with the objective of **building** mutual trust between Member States.

Amendment

(2) To this end, a comprehensive approach is required with the objective of **reinforcing** mutual trust between Member States, **ensuring the full respect of the fundamental rights of third-country nationals and stateless persons**.

Amendment 4
Proposal for a regulation
Recital 3

Text proposed by the Commission

Amendment

(3) The comprehensive approach **should bring together policies in the areas of asylum, migration management, returns, external border protection and partnership with relevant third countries, recognising that the effectiveness of the overall approach depends on all components being jointly addressed and in an integrated manner.** The **comprehensive approach** should ensure that the Union has at its disposal specific rules to effectively manage migration **including** the triggering of a **compulsory** solidarity mechanism and that all the necessary measures are put in place to prevent crisis to happen.

(3) The comprehensive approach **as outlined in Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation]** should ensure that the Union has at its disposal specific rules to effectively manage migration, **in particular** the triggering of a **mandatory** solidarity mechanism and that all the necessary measures are put in place to prevent crisis to happen.

Amendment 5
Proposal for a regulation
Recital 4

Text proposed by the Commission

(4) **Notwithstanding the putting in place of the necessary preventive measures, it cannot be excluded that a situation of crisis or force majeure in the field of migration and asylum arises due to circumstances beyond the control of the Union and its Member States.**

Amendment

deleted

Amendment 6
Proposal for a regulation
Recital 5

Text proposed by the Commission

(5) This Regulation should contribute to and complete the comprehensive approach by setting out the specific procedures and mechanisms in the field of **international protection** and return that should apply in the exceptional circumstances of a situation of crisis. It should ensure, in particular, the effective application of the principle of solidarity and fair sharing of responsibility and the

Amendment

(5) This Regulation should contribute to and complete the comprehensive approach by setting out the specific procedures and mechanisms in the field of **asylum** and return that should apply in the exceptional circumstances of a situation of crisis. It should ensure, in particular, the effective application of the principle of solidarity and fair sharing of responsibility and the adaptation of the relevant rules on

adaptation of the relevant rules on asylum and return procedures, so that the Member States and the Union have the necessary tools at their disposal including sufficient time to carry out *those* procedures.

asylum and return procedures, *including the granting of prima facie international protection*, so that the Member States and the Union have the necessary tools at their disposal including sufficient time to carry out *all the different* procedures.

Amendment 7
Proposal for a regulation
Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) *This Regulation intends to enhance the preparedness and resilience of the Union to manage situations of crisis and to facilitate operational coordination, capacity support and the availability of funding in situations of crisis.*

Amendment 8
Proposal for a regulation
Recital 5 b (new)

Text proposed by the Commission

Amendment

(5b) *To alleviate a potential increase of the pressure on the external borders, Member States should use all the tools available under national and Union law, including making use of anticipation and early warning tools under the EU mechanism for preparedness and management of crises related to migration foreseen in Commission Recommendation (EU) 2020/1366 of 23 September 2020^{1a}.*

^{1a}*Commission Recommendation (EU) 2020/1366 of 23 September 2020 on an EU mechanism for preparedness and management of crises related to migration (OJ L 317, 1.10.2020, p. 26).*

Amendment 9
Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) ***A mass influx of persons crossing the border irregularly and within a short period of time may lead to a situation of crisis in a particular Member State. That may also have consequences for the functioning of the asylum and migration system, not only in that Member State but in the Union as a whole, due to unauthorised movements and the lack of capacity in the Member State of first entry to process the applications for international protection of such third-country nationals.*** It is necessary to lay down specific rules and mechanisms that should enable effective action to address such situations.

Amendment

(6) ***An exceptional situation of mass and sudden arrivals of third-country nationals or stateless persons by land or by sea, including following search and rescue operations, may lead to a situation of crisis in a particular Member State when it is of such a scale or has such an impact that it renders that Member State's ordinary and well-prepared asylum, reception, return or child protection systems non-functional. The systems could be rendered non-functional as a result of a situation at local or regional level. Such a situation may also have serious consequences for the functioning of the Common European Asylum System. It is necessary to lay down specific rules and mechanisms that should enable effective action to address such situations.***

Amendment 10
Proposal for a regulation
Recital 7

Text proposed by the Commission

(7) ***In addition to situations of crisis, Member States may be faced with abnormal and unforeseeable circumstances outside their control, the consequences of which could not have been avoided in spite of the exercise of all due care. Such situations of force majeure could make it impossible to respect the time limits set by Regulations (EU) XXX/XXX [Asylum Procedures Regulation] and (EU) XXX/XXX [Asylum and Migration Management] for registering applications for international protection or carrying out the procedures for determining the Member State responsible for examining an application***

Amendment

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for international protection. In order to ensure that the common asylum system continues functioning in an efficient and fair manner, while guaranteeing a timely examination of international protection needs and legal certainty, longer time limits for the registration of applications and for the procedural steps required for determining responsibility and transferring applicants to the responsible Member State should apply in such situations. Member States faced with a situation of force majeure should also be able to implement the solidarity measures that they have to take pursuant to the solidarity mechanism set out in this Regulation and in Regulation (EU) XXX/XXX [Asylum and Migration Management] within an extended time frame, where necessary.

Amendment 11
Proposal for a regulation
Recital 7 a (new)

Text proposed by the Commission

(19) In order to allow for the proper management of a *crisis* situation and ensure a proper adaptation of the relevant rules on the asylum and return procedure, the Commission should, by way of *an implementing* decision, authorise concerned Member States, *upon their reasoned request*, to apply relevant derogatory rules. Such *an implementing decision* could authorise one or more *requesting* Member States to derogate from the relevant rules.

Amendment

(7a) In order to allow for the proper management of a situation *of crisis* and ensure a proper adaptation of the relevant rules on the asylum and return, *border procedure and prima facie international protection*, the Commission should, by way of *a delegated act, take a reasoned decision on whether a Member State is in a situation of crisis and* authorise concerned Member States, to apply relevant *temporary* derogatory rules. Such *a delegated act* could authorise one or more Member States to derogate from the relevant rules, *to apply international prima facie protection and to benefit from relocation contributions*.

Amendment 12
Proposal for a regulation

Recital 7 b (new)

Text proposed by the Commission

(20) The Commission should *examine* a reasoned request *submitted* by a Member State *while taking* into account substantiated information gathered pursuant to Regulation (EU) XXX/XXX [*Asylum Agency Regulation*] and Regulation (EU) 2019/1896 of the European Parliament and of the Council²⁴ and the Migration Management report referred to in Regulation (EU) XXX/XXX [Asylum and Migration Management].

²⁴ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624, OJ L 295, 14.11.2019, p. 1.

Amendment

(7b) *Before adopting the delegated act*, the Commission should *assess a situation of crisis on the basis of* a reasoned request by *the Member State concerned or on its own initiative. In the assessment the Commission should take into account relevant information covering the situation in a Member State during the two preceding months. In particular, the information should take* into account substantiated information gathered pursuant to Regulation (EU) **2021/2303 of the European Parliament and of the Council^{23a}** and Regulation (EU) 2019/1896 of the European Parliament and of the Council²⁴ and the Migration Management report referred to in Regulation (EU) XXX/XXX [*Asylum and Migration Management Regulation*]. *The Commission should also consult the relevant Agencies, in particular the European Union Agency for Asylum (EUAA), the European Border and Coast Guard Agency and European Union Agency for the Fundamental Rights Agency, as well as international organisations, in particular the UNHCR and IOM, and other relevant organisations.*

^{23a} **Regulation (EU) 2021/2303 of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010 (OJ L 468, 30.12.2021, p. 1).**

²⁴ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1).

Amendment 13
Proposal for a regulation
Recital 7 c (new)

Text proposed by the Commission

Amendment

(7c) In the context of this Regulation, and following the vulnerability check in accordance with the Regulation (EU) XXX/XXX [Screening Regulation], persons belonging to the following categories should be considered to be in a vulnerable situation: minors, unaccompanied minors, persons with disabilities, elderly persons, pregnant women, single parents with a minor or an adult dependent child, victims of trafficking in human beings, persons with serious illnesses, persons with mental disorders including post traumatic stress disorder and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.

Amendment 14
Proposal for a regulation
Recital 7 d (new)

Text proposed by the Commission

Amendment

(7d) The Commission should keep the situation of crisis under constant monitoring and review as regards the necessity and proportionality of the crisis measures triggered by this Regulation.

Amendment 15
Proposal for a regulation
Recital 8

Text proposed by the Commission

Amendment

(8) The solidarity mechanism for situations of migratory pressure as set out in Regulation (EU) XXX/XXX [Asylum and Migration Management] should be

deleted

adapted to the specific needs of situations of crisis by extending the personal scope of the solidarity measures provided for in that Regulation and setting shorter deadlines.

Amendment 16
Proposal for a regulation
Recital 9

Text proposed by the Commission

Amendment

(9) *The adoption of measures in respect of a particular Member State should be without prejudice to the possibility for the Council to adopt provisional measures on a proposal from the Commission pursuant to Article 78(3) of the Treaty on the Functioning of the European Union in the event of an emergency situation in a Member State characterised by a sudden inflow of third-country nationals.*

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Amendment 17
Proposal for a regulation
Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) *The solidarity mechanism should ensure a fair sharing of responsibility and a balance of efforts between Member States. When Member States are confronted with a situation of crisis, they should receive swift support from other Member States through a fast, fair, and efficient mandatory relocation mechanism.*

Amendment 18
Proposal for a regulation
Recital 10

Text proposed by the Commission

Amendment

(10) In order to quickly help alleviate the pressure faced by a Member State in a situation of crisis, the *scope of relocation* should *include all* categories of *applicants for international protection, including persons granted immediate protection, as well as beneficiaries of international protection and irregular migrants. Furthermore, a Member State that provides return sponsorship should transfer the illegally staying third-country national from the benefitting Member State if the person concerned does not return or is not removed within four months, instead of eight months as provided for by Regulation (EU) XXX/XXX [Asylum and Migration Management].*

Amendment 19
Proposal for a regulation
Recital 10 a (new)

Text proposed by the Commission

(10) In order to quickly help alleviate the pressure faced by a Member State in a situation of crisis, the *Commission, by means of implementing acts, should set out the distribution of the categories of persons to be relocated following the submission of Solidarity Response Plans by Member States. Where a Member State did not submit a Solidarity Response Plan, the implementing act should set out the mandatory share of relocation contributions for that Member State.*

Amendment

(10a) In order to calculate the share of relocation contributions of each contributing Member State, a reference key based on the GDP and the population of the Member State concerned should be used. When applying the reference key the relocation contributions provided by that Member State pursuant to Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation] should not be deducted from the share of a contributing Member State.

Amendment 20
Proposal for a regulation
Recital 10 b (new)

Text proposed by the Commission

Amendment

(10b) In a situation of crisis, the contributing Member States, which are not themselves benefitting Member States,

should contribute through the mandatory relocation of applicants for international protection, regardless of whether such applicants are subject to the border procedure, and of beneficiaries of international protection who have been granted international protection less than three years before the adoption of the implementing act on mandatory relocation. In conducting relocation, Member States should prioritise the relocation of vulnerable persons, in particular unaccompanied minors and victims of trafficking in human beings, as well as beneficiaries of prima facie international protection. Where Member States are themselves benefitting Member States, they should be exempted from providing relocation contributions.

Amendment 21
Proposal for a regulation
Recital 10 c (new)

Text proposed by the Commission

Amendment

(10c) To ensure a swift response, the contributing Member State for relocation should be determined on the basis of meaningful links between the person to be relocated and a certain Member State. The EU Relocation Coordinator in cooperation with EUAA should assist the Member State in that regard. Ensuring that persons are relocated to the most appropriate Member State will also limit secondary movements between the Union Member States. Where no meaningful links to a Member State can be determined, the preference of the applicant or beneficiary of international protection or of groups of applicants or beneficiaries should, when possible, be taken into account.

Amendment 22

**Proposal for a regulation
Recital 10 d (new)**

Text proposed by the Commission

Amendment

(10d) When applying this Regulation the ‘best interests of the child’ should be a primary consideration, in line with the 1989 United Nations Convention on the Rights of the Child. In assessing the best interests of the child, Member States’ authorities should in particular take due account of the principle of family unity, the minor’s well-being and social development, the minor’s linguistic skills, safety and security considerations and the views of the minor in accordance with his or her age and maturity.

**Amendment 23
Proposal for a regulation
Recital 10 e (new)**

Text proposed by the Commission

Amendment

(10e) To ensure a smooth functioning of the relocation of applicants and beneficiaries under this Regulation, and in view of coordinating and optimising all relocation efforts, the EU Relocation Coordinator established under Regulation (EU) XXX/XXX [Asylum and Migration Management] should endeavour to prioritise vulnerable persons, in particular unaccompanied minors, and beneficiaries of prima facie international protection in the relocation transfers. The EU Relocation Coordinator should also, in cooperation with the Commission and the EUAA, promote coherent working methods, for the verification of any meaningful links persons eligible for relocation might have with Member States of relocation. In a situation of crisis, the EU Relocation Coordinator should, every two weeks, provide a bulletin on the state of the implementation and functioning of the relocation mechanism. The office of

the Relocation Coordinator should be provided with sufficient staff and resources to effectively fulfil this role.

Amendment 24
Proposal for a regulation
Recital 10 f (new)

Text proposed by the Commission

Amendment

(10f) Member States should take all the necessary measures to prevent a situation of crisis, by developing, maintaining, and strengthening all aspects of the Common European Asylum System. To ensure a sufficient level of preparedness for a situation of crisis, Members States should include in their contingency plans measures needed to respond to and resolve a situation of crisis, including measures needed to overcome challenges in the functioning of the Common European Asylum System and to protect the rights of applicants for and beneficiaries of international protection as well as foster future resilience in the Member State concerned

Amendment 25
Proposal for a regulation
Recital 11

Text proposed by the Commission

Amendment

(11) The procedural rules set out in Regulation (EU) XXX/XXX [Asylum and Migration Management] for carrying out relocation and return sponsorship should be applied for the purpose of ensuring the proper implementation of the solidarity measures in a situation of crisis, although they should be adjusted in order to take into account the gravity and urgency of that situation.

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Amendment 26
Proposal for a regulation
Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) Upon request of the benefitting Member State and in full cooperation and coordination with the EU Relocation Coordinator and the EUAA, the Commission should also coordinate the humanitarian support provided to the Member State in a situation of crisis. Humanitarian support should be mobilised from the available humanitarian tools, including the European Civil Protection Pool and rescEU on the basis of the Decision (EU) 2019/420.

Amendment 27
Proposal for a regulation
Recital 11 b (new)

Text proposed by the Commission

Amendment

(11b) A Member State in a situation of crisis should receive operational and technical support including any assistance by experts or teams deployed by the EUAA or the European Border and Coast Guard Agency in accordance with Regulations (EU) 2021/2303 and (EU) 2019/1896.

Amendment 28
Proposal for a regulation
Recital 11 c (new)

Text proposed by the Commission

Amendment

(11c) To support Member States who undertake relocation as a solidarity measure, financial and capacity support from the Union budget should be provided. Where Member States receive financial support for relocation, they

should ensure that the local authorities supporting the relocation process benefit from this financial support.

Amendment 29
Proposal for a regulation
Recital 11 d (new)

Text proposed by the Commission

Amendment

(11d) Where needed, emergency funding under Regulation (EU) 2021/1147 of the European Parliament and of the Council^{1a} may be allocated to a Member in a situation of crisis. That funding could be used for the construction, running, and renovation of reception facilities required for the application of this Regulation, in line with the standards provided for in Directive XXX/XXX/EU [Reception Conditions Directive].

^{1a} Regulation (EU) 2021/1147 of the European Parliament and of the Council of 7 July 2021 establishing the Asylum, Migration and Integration Fund (OJ L 251, 15.7.2021, p. 1).

Amendment 30
Proposal for a regulation
Recital 12

Text proposed by the Commission

Amendment

(12) In situations of crisis, Member States might need a wider set of measures in order to manage **a mass influx** of third-country nationals in an orderly fashion **and contain unauthorised movements**. Such measures **should** include the application of an asylum crisis management procedure and a return crisis management procedure.

(12) In situations of crisis, Member States might need a wider set of measures in order to manage **mass arrivals** of third-country nationals in an orderly fashion. It should be possible for such measures to include the application of an asylum crisis management procedure and a return crisis management procedure.

Amendment 31

Proposal for a regulation
Recital 13

Text proposed by the Commission

(13) In order to allow Member States to deal with large numbers of applications for international protection in situations of crisis, **a longer time limit** should be **set** for registering the applications for international protection made **during** such situations of crisis. Such an extension should be without prejudice to the rights of asylum applicants guaranteed by the Charter of Fundamental Rights of the European Union.

Amendment

(13) In order to allow Member States to deal with large numbers of applications for international protection in situations of crisis, **the Commission** should be **able to authorise the application of derogatory rules** for registering the applications for international protection made **at the start of** such situations of crisis. **Therefore, by way of a single and temporary derogation, applications made within four weeks from adoption of the delegated act should be registered within a period of four weeks from when they are made.** Such an extension should be without prejudice to the rights of asylum applicants guaranteed by the Charter of Fundamental Rights of the European Union, **Regulation (EU) XXX/XXX [Asylum Procedures Regulation] and Directive (EU) XXX/XXX [Reception Conditions Directive].**

Amendment 32
Proposal for a regulation
Recital 13 a (new)

Text proposed by the Commission

(16) In a situation of crisis, in view of the possible strain on the asylum system, Member States **should have the possibility not to authorise the entry in their territory of applicants subject to a border procedure for a longer** period of time **than the ones** set in Article 41 (11) and (13) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation]. However, the procedures should be completed as soon as possible **and in any event the periods of time should only be prolonged by an additional period not exceeding eight weeks;** if those procedures cannot be completed by the expiry of that prolonged

Amendment

(13a) In a situation of crisis, in view of the possible strain on the asylum system, **an asylum crisis management procedure should allow** Member States **to prolong the maximum duration of the** border procedure **by an additional four weeks to the** period of time set in Article 41 (11) and (13) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation]. However, the procedures should be completed as soon as possible **in full respect of Directive XXX/XXX/EU [Reception Conditions Directive].** If those procedures cannot be completed by the expiry of that prolonged period, applicants

period, applicants should be authorised to enter the territory of a Member State for the purpose of completing the procedure for international protection.

should be authorised to enter the territory of a Member State for the purpose of completing the procedure for international protection. ***Applicants in a vulnerable situation should be excluded from the asylum crisis management procedure.***

Amendment 33
Proposal for a regulation
Recital 13 b (new)

Text proposed by the Commission

Amendment

(13b) Member States should ensure applicants and persons granted prima facie international protection receive a document, in a language they can understand or be reasonably supposed to understand, which clearly sets out the provisions relating to their status and which gives them access to the relevant services of the Member State.

Amendment 34
Proposal for a regulation
Recital 14

Text proposed by the Commission

Amendment

(14) In order to ensure that Member States have the necessary flexibility when confronted with a large influx of migrants expressing the intention to apply for asylum, the application of the border procedure, established by Article 41 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation] should be broadened, and an asylum crisis management procedure should allow Member States to take a decision in the framework of a border procedure also on the merits of an application in cases where the applicant is of a nationality, or, in the case of stateless persons, a former habitual resident of a third country, for which the proportion of decisions granting international protection Union-

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wide is 75% or lower. As a result, in the application of the crisis border procedure, Member States should continue applying the border procedure as provided by Article 41 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation] but could extend the application of the border procedure to nationals who come from third countries where the EU-wide average recognition rate is above 20% but under 75%.

Amendment 35
Proposal for a regulation
Recital 15

Text proposed by the Commission

Amendment

(15) The screening of third-country nationals according to the rules laid down in Regulation (EU) No XXX/XXX [Screening Regulation] should apply with the possibility to extend the 5-day deadline by another five days, as specified in that Regulation.

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Amendment 36
Proposal for a regulation
Recital 17

Text proposed by the Commission

Amendment

(17) The return crisis management procedure should facilitate, in a situation of crisis, the return of *illegally* staying third-country nationals whose applications were rejected in the context of a crisis asylum management procedure and who have no right to remain and are not allowed to remain, by providing the competent national authorities with the necessary tools and sufficient time-frame to carry out return procedures with due diligence. *To be able to respond to situations of crisis in an effective manner, the return crisis management procedure should apply also to applicants, third-country nationals and*

(17) The return crisis management procedure should facilitate, in a situation of crisis, the return of *irregularly* staying third-country nationals *or stateless persons* whose applications were rejected in the context of a crisis asylum management procedure and who have no right to remain and are not allowed to remain, by providing the competent national authorities *and Union Agencies* with the necessary tools and sufficient time-frame to carry out return procedures with due diligence.

stateless persons subject to the border procedure referred to in Article 41 of the of proposed Regulation (EU) XXX/XXX [Asylum Procedures Regulation], whose applications were rejected before the adoption of a Commission decision declaring that a Member State is confronted with a situation of crisis, and who have no right to remain and are not allowed to remain after such a decision.

Amendment 37
Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) When applying the return crisis management procedure, *illegally* staying third-country nationals or stateless persons who have no right to remain and are not allowed to remain should not be authorised to enter the territory of the Member State concerned and should be kept at the locations referred to in Article 41a(2) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation] for a period that may be longer than the one established by that Article in order to enable authorities to cope with the situations of crisis and finalise return procedures; for this purpose, the maximum duration of 12 weeks of the border procedure for carrying out return set out in Article 41a(2) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation] could be prolonged by an additional period that may not exceed **eight** weeks. ***During that period, it should be possible to keep the illegally staying third-country nationals in detention, in application of Article 41(a)(5) and (6) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], provided that the guarantees and conditions for detention laid down in Directive XXX/XXX/EU [recast Return Directive] are respected, including the individual assessment of each case, judicial control of detention***

Amendment

(18) When applying the return crisis management procedure, *irregularly* staying third-country nationals or stateless persons who have no right to remain and are not allowed to remain should not be authorised to enter the territory of the Member State concerned and should be kept at the locations referred to in Article 41a(2) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation] for a period that can be longer than the one established by that Article in order to enable authorities to cope with the situations of crisis and finalise return procedures; for this purpose, the maximum duration of 12 weeks of the border procedure for carrying out return set out in Article 41a(2) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation] could be prolonged by an additional period that cannot exceed **four** weeks. ***By way of derogation from Article 41a(7) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], the period of detention set in that Article should not exceed the period mentioned above and should be included in the maximum periods of detention set in Article 15 (5) and (6) of Directive XXX/XXX/EU [Return Directive].***

and adequate conditions of detention.

Amendment 38
Proposal for a regulation
Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) Member States should not hold a person in detention for the sole reason that he or she is an applicant for international protection. They should ensure that the relevant safeguards in Regulation (EU) XXX/XXX [Asylum Procedures Regulation] apply. Member States should provide for alternatives to detention in border procedures, in particular for unaccompanied minors, families with children, and applicants with specific vulnerabilities. Such alternatives should be available both in law and fact at national level.

Amendment 39
Proposal for a regulation
Recital 18 b (new)

Text proposed by the Commission

Amendment

(18b) When applying the asylum and return crisis management procedure for the examination of an application for international protection, Member States should ensure that the necessary arrangements are made to accommodate the applicants in accordance with Directive XXX/XXX/EU [Reception Conditions Directive]. Asylum staff, medical staff, legal representatives, non-governmental organisations, and Union institutions and agencies should always be allowed to access border procedure facilities

Amendment 40

Proposal for a regulation
Recital 18 c (new)

Text proposed by the Commission

Amendment

(18c) When a Member State is in a situation of crisis, all efforts should be focused on alleviating the pressure on its asylum and reception systems. For this reason, the Member State concerned should be considered unable to receive persons it is responsible for pursuant to Regulation (EU) XXX/XXX [Asylum and Migration Management].

Amendment 41
Proposal for a regulation
Recital 21

Text proposed by the Commission

Amendment

(21) In order to provide Member States with additional time needed to deal with the situation of crisis and at the same time ensure an effective and as quick as possible access to the relevant procedures and rights, the Commission should authorise the application of the asylum crisis management procedure and the return crisis management procedure for a period of six months, which could be extended up to a period not exceeding one year. After the expiry of the relevant period, the extended deadlines provided for in the asylum and return crisis management procedures should not be applied to new applications for international protection.

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Amendment 42
Proposal for a regulation
Recital 22

Text proposed by the Commission

Amendment

(22) For the same reasons, the Commission should authorise the

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application of derogatory rules as regards the registration deadline for a period not exceeding four weeks, which should be renewable upon a new reasoned request submitted by the Member State concerned. The total period of application should nonetheless not exceed twelve weeks.

Amendment 43
Proposal for a regulation
Recital 23

Text proposed by the Commission

(23) In a *crisis* situation, Member States should *have the possibility to suspend the examination of applications for* international protection *made by* displaced persons from third countries *who are unable to return to* their country of origin, *where they would face a high degree of risk of being subject to indiscriminate violence, in exceptional situations of armed conflict*. In such a case, *immediate protection status* should be granted to those persons. *Member States should resume the examination of their application one year at the latest from its suspension.*

Amendment 44
Proposal for a regulation
Recital 23 a (new)

Text proposed by the Commission

Amendment

(23) In a situation *of crisis*, Member States should *grant prima facie* international protection *to certain categories of* displaced persons from third countries *based on circumstances in* their country of origin *or the country of former habitual residence or parts of that country, or on the basis of other readily apparent, objective and well-defined criteria drawn from Regulation (EU) XXX/XXX [Qualification Regulation]*. *The Commission should indicate, in its delegated act establishing the situation of crisis, whether there is a need to apply prima facie international protection and the category (ies) of applicants to which it should apply.* In such a case, *prima facie international* protection should be granted to those persons.

(23a) Where the situation has changed after the adoption of the delegated act setting out the categories of applicants eligible for international protection, the Commission can adopt a new delegated act. That new delegated act can add,

remove or change the categories of applicants that are eligible for prima facie international protection.

Amendment 45
Proposal for a regulation
Recital 23 b (new)

Text proposed by the Commission

Amendment

(23b) The application of the prima facie international protection should allow for the swift and efficient granting of international protection in a situation of crisis.

Amendment 46
Proposal for a regulation
Recital 23 c (new)

Text proposed by the Commission

Amendment

(23c) The relevant Union Agencies, UNHCR and other relevant organisations should be consulted at the different stages of the application of the prima facie international protection, including ahead of the decision on a situation of crisis by delegated act, during the implementation of the prima facie international protection and ahead of the decision to end a situation of crisis.

Amendment 47
Proposal for a regulation
Recital 23 d (new)

Text proposed by the Commission

Amendment

(23d) The application for prima facie international protection should only consist of registration, to determine whether the applicant falls within the category (ies), set out in the delegated act, and whether the exclusion grounds apply. For applications for prima facie

international protection in the context of this Regulation, there should be no interview on the merits, but if there are doubts whether the applicant belongs to the category (ies) of persons identified in the delegated act or whether the exclusion grounds apply, an interview might be needed. In all cases, the procedure should not last longer than one month from the date of their registration. Where a Member State has established that an applicant for international protection is a threat to internal security, that Member State should be able not to apply prima facie international protection in respect of that applicant. In such circumstances, the application should be examined in accordance with Articles 34 and 37 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation].

Amendment 48
Proposal for a regulation
Recital 24

Text proposed by the Commission

Amendment

(24) Persons granted immediate protection should continue to be considered as applicants for international protection, in view of their pending application for international protection within the meaning of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], as well as within the meaning of Regulation (EU) XXX/XXX [Asylum and Migration Management].

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Amendment 49
Proposal for a regulation
Recital 24 a (new)

Text proposed by the Commission

Amendment

(24a) The end of the situation of crisis should not have consequences on the status of those granted prima facie

international protection, nor to the applications that were pending under the prima facie international protection mechanism. The end of the situation of crisis should be without prejudice to the right to apply for refugee status, in particular for those applicants who were granted subsidiary protection under the prima facie international protection mechanism.

Amendment 50
Proposal for a regulation
Recital 25

Text proposed by the Commission

Amendment

(25) Member States should ensure that beneficiaries of immediate protection status have effective access to all the rights laid down in Regulation (EU) XXX/XXX [Qualification Regulation] applicable and equivalent to those enjoyed by beneficiaries of subsidiary protection.

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Amendment 51
Proposal for a regulation
Recital 25 a (new)

Text proposed by the Commission

Amendment

(25a) Where an applicant is granted prima facie international protection, Regulation (EU) XXX/XXX [Qualification Regulation] should apply in respect of that person, including the provisions of that Regulation that concern the withdrawal of protection.

Amendment 52
Proposal for a regulation
Recital 25 b (new)

Text proposed by the Commission

Amendment

(25b) Where it is determined that an applicant for prima facie international protection does not fall within the category(ies) of persons as defined in the delegated act, his or her application should be examined in accordance with the regular admissibility procedure and the examination of the merits laid out in Regulation (EU) XXX/XXX [Asylum Procedures Regulation].

Amendment 53
Proposal for a regulation
Recital 26

Text proposed by the Commission

Amendment

(26) In order to carry out a proper assessment of applications for international protection submitted by beneficiaries of immediate protection, the asylum procedures should resume at the latest after one year from the suspension of such procedures.

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Amendment 54
Proposal for a regulation
Recital 27

Text proposed by the Commission

Amendment

(27) Since the adoption of Council Directive 2001/55/EC²⁵, the rules concerning the qualification of beneficiaries of international protection have evolved considerably. Given that this Regulation lays down rules for granting immediate protection status in crisis situations to displaced persons from third countries who are unable to return to their country of origin, and provides for specific rules for solidarity for such persons, Directive 2001/55/EC should be repealed.

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²⁵ Council Directive 2001/55/EC of 20

July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 12.)

Amendment 55
Proposal for a regulation
Recital 28

Text proposed by the Commission

Amendment

(28) Specific rules should be set out for situations of force majeure, to allow Member States to extend the time limits set out in Regulation (EU) XXX/XXX [Asylum and Migration Management] under strict conditions where it is impossible to comply with those time limits due to the extraordinary situation. Such extension should apply to the time limits set out for sending and replying to take charge requests and take back notifications as well as the time limit to transfer an applicant to the Member State responsible.

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Amendment 56
Proposal for a regulation
Recital 29

Text proposed by the Commission

Amendment

(29) Specific rules should also be set out for situations of force majeure, to allow Member States to extend the time limits relating to registration of applications for international protection in Regulation (EU) XXX/XXX [Asylum Procedures Regulation], under strict conditions. In these cases, applications for international protection should be registered by that Member State at the latest four weeks from when they are

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made.

Amendment 57
Proposal for a regulation
Recital 30

Text proposed by the Commission

Amendment

(30) In such situations of force majeure, the Member State concerned should notify the Commission and, where applicable, the other Member States, of its intention to apply the respective derogations from those time limits, as well as the precise reasons for their intended application, as well as the period of time during which they will be applied.

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Amendment 58
Proposal for a regulation
Recital 31

Text proposed by the Commission

Amendment

(31) In situations of force majeure, which render it impossible for a Member State to comply with the obligation to undertake solidarity measures within the timeframes established in the Regulation (EU) XXX/XXX [Asylum and Migration Management] and this Regulation, it should be possible for that Member State to notify the Commission and the other Member States of the precise reasons for which it considers that it is facing such a situation and extend the timeframe for undertaking solidarity measures.

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Amendment 59
Proposal for a regulation
Recital 32

Text proposed by the Commission

Amendment

(32) Where a Member State is no longer facing a situation of force majeure,

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it should, as soon as possible, notify the Commission, and where applicable, the other Member States, of the cessation of the situation. The time limits derogating from Regulation (EU) XXX/XXX [Asylum and Migration Management] should not be applied to new applications for international protection made or for third-country nationals or stateless persons found to be illegally staying after the date of that notification. Upon such notification, the time limits laid down in Regulation (EU) XXX/XXX [Asylum Procedures Regulation] should start to apply.

Amendment 60
Proposal for a regulation
Recital 33

Text proposed by the Commission

(33) To support Member States who undertake relocation as a solidarity measure, financial support from the EU budget should be provided.

Amendment

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Amendment 61
Proposal for a regulation
Recital 34

Text proposed by the Commission

(34) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²⁶.

Amendment

(34) In order to allow for the necessary adaptation of the rules on asylum procedures as well as those on solidarity, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the establishment of the decision on a situation of crisis, relocation contributions in a situation of crisis, derogations to the asylum and return procedures, granting prima facie international protection and establishing when a situation of crisis ends. It is of

particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making^{25a}. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

²⁶ *Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers, (OJ L 55, 28.2.2011, p. 13).*

^{25a} *OJ L 123, 12.5.2016, p. 1.*

Amendment 62
Proposal for a regulation
Recital 34 a (new)

Text proposed by the Commission

Amendment

(34a) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred to the Commission to determine the distribution of the relocation needs amongst Member States or the mandatory shares of relocation contributions applicable. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council^{1a}.

^{1a} *Regulation (EU) No 182/2011 of the*

European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers, (OJ L 55, 28.2.2011, p. 13).

Amendment 63
Proposal for a regulation
Recital 35

Text proposed by the Commission

(35) The examination procedure should be used for the adoption of ***solidarity measures in situations of crisis for authorising the application of derogatory procedural rules, and for triggering the granting of immediate protection status.***

Amendment

(35) The examination procedure should be used for the adoption of ***implementing acts determining the distribution and mandatory share of relocation contributions amongst Member States.***

Amendment 64
Proposal for a regulation
Recital 37

Text proposed by the Commission

(37) This Regulation respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular respect for human dignity, the right to life, the prohibition of torture and inhuman or degrading treatment or punishment, the right to asylum and the protection in the event of removal, expulsion or extradition. The Regulation should be implemented in compliance with the Charter and general principles of Union law as well as international law, including refugee protection, human rights obligation and the prohibition of refoulement.

Amendment

(37) This Regulation respects the fundamental rights ***guaranteed under Union and international law*** and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular respect for human dignity, the right to life, ***the principle of the best interests of the child***, the prohibition of torture and inhuman or degrading treatment or punishment, the right to asylum and the protection in the event of removal, expulsion or extradition. The Regulation should be implemented in compliance with the Charter and general principles of Union law as well as international law, including refugee protection, human rights obligation and the prohibition of refoulement.

Amendment 65
Proposal for a regulation
Recital 37 a (new)

Text proposed by the Commission

Amendment

(37a) Since the objectives of this Regulation, namely to provide for the necessary adaptation of the rules on asylum procedures as well as those on solidarity in order to ensure that Member States are able to address situations of crisis in the field of asylum and migration management within the Union, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

Amendment 66
Proposal for a regulation
Article 1 – paragraph 1

Text proposed by the Commission

Amendment

1. This Regulation addresses situations of crisis ***and force majeure*** in the field of migration and asylum within the Union and provides for specific rules derogating from those ***set out in Regulations (EU) XXX/XXX [Asylum and Migration Management] and (EU) XXX/XXX [Asylum Procedures Regulation] and in Directive XXX [recast Return Directive]***.

1. This Regulation addresses situations of crisis in the field of migration and asylum within the Union and provides for specific ***temporary*** rules derogating from those ***laid down in Regulation (EU) XXX/XXX [Asylum Procedures Regulation] and in Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation]***. ***This Regulation establishes a crisis response mechanism, aiming at alleviating the pressure on Member States facing a situation of crisis, ensuring the fair sharing of responsibility and protecting the rights of the applicants and***

beneficiaries of international protection.

Amendment 67
Proposal for a regulation
Article 1 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Temporary measures adopted pursuant to this Regulation shall meet the requirements of necessity and proportionality, be appropriate to achieving their stated objectives and be without prejudice to the obligations of the Member States under the Charter of the Fundamental Rights of the European Union, international law and the Union asylum acquis. Such measures shall be consistent with the Member States' obligations under international law and the Union asylum acquis

Amendment 68
Proposal for a regulation
Article 1 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. The measures in this Regulation shall be applied only to the extent strictly required by the exigencies of the situation, in a temporary and limited manner and only in exceptional circumstances.

Amendment 69
Proposal for a regulation
Article 1 – paragraph 2

Text proposed by the Commission

Amendment

2. For the purposes of this Regulation, a situation of crisis is to be understood as:

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(a) an exceptional situation of mass influx of third-country nationals or stateless

persons arriving irregularly in a Member State or disembarked on its territory following search and rescue operations, being of such a scale, in proportion to the population and GDP of the Member State concerned, and nature, that it renders the Member State's asylum, reception or return system non-functional and can have serious consequences for the functioning the Common European Asylum System or the Common Framework as set out in Regulation (EU) XXX/XXX [Asylum and Migration Management], or

(b) an imminent risk of such a situation.

Amendment 70
Proposal for a regulation
Article 1 a (new)

Text proposed by the Commission

Amendment

Article 1a

Definitions

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

- (1) 'a situation of crisis' means an exceptional situation in a Member State of mass and sudden arrivals of third-country nationals or stateless persons by land or by sea, including following search and rescue operations, being of such a scale or having such an impact that it renders that Member State's ordinary and well-prepared asylum, reception, return, or child-protection system at national level non-functional including as a result of a situation at local or regional level, and which can have serious consequences for the functioning of the Common European Asylum System;*
- (2) 'a benefitting Member state' means a Member State receiving support under the provisions of this Regulation;*
- (3) 'a contributing Member State'*

means the Member State which undertakes relocation under the provisions of this Regulation.

Amendment 71
Proposal for a regulation
Article 1 b (new)

Text proposed by the Commission

Amendment

Article 1b

Assessment of a situation of crisis

1. The Commission shall assess whether a Member State is in a situation of crisis in any of the following cases:

(a) the Member State has informed the Commission, the Parliament and the Council that it considers itself to be in a situation of crisis, and has submitted a reasoned request to the Commission and a description of how its asylum, reception or child-protection system has become non-functional

(b) on the basis of information available from relevant Union agencies, in particular the EUAA, the European Border and Coast Guard Agency and the Fundamental Rights Agency, as well as international organisations, in particular the UNHCR and IOM and other relevant organisations, the Commission considers that the Member State may be in a situation of crisis.

2. The Commission shall immediately notify the European Parliament, the Council and the Member States that it is undertaking an assessment referred to in paragraph 1.

3. When assessing whether a Member State is in a situation of crisis, the Commission shall consult the Justice and Home Affairs Agencies, in particular the EUAA, the European Border and Coast Guard Agency and the Fundamental Rights Agency, as well as

international organisations, in particular the UNHCR and IOM and take into account the information gathered pursuant to the Commission Recommendation (EU) 2020/1366 and the Migration Management Report referred to in Article 6(4) of Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation].

4. The Commission shall consult the Member State concerned during its assessment.

5. An assessment of a situation of crisis as referred to in paragraph 1 shall cover the situation in the Member State concerned during the preceding two months, compared to the overall situation in the Union, and shall take into account, in particular, the following information regarding the Member state concerned:

(a) the number of applications for international protection by stateless persons and by third-country nationals and the nationality of the applicants;

(b) the number of return decisions adopted in compliance with Directive 2008/115/EC but not carried out;

(c) the number of third-country nationals admitted by the Member State through Union and national resettlement and humanitarian admission schemes;

(d) the number of incoming and outgoing take charge and take back requests in accordance with Articles 34 and 36 of Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation];

(e) the number of applicants in a vulnerable situation;

(f) the number of unaccompanied minors;

(g) the number of transfers carried out in accordance with Article 31 of Regulation (EU) XXX/XXX [Asylum and

Migration Management Regulation];

(h) the number and nationality of persons found to have irregularly crossed an the external land, sea or air border;

(i) the number and nationality of third-country nationals and stateless persons disembarked following search and rescue operations, including the number of applications for international protection;

(j) the capacity of the asylum, reception, or child-protection, or integration system of the Member State concerned, including on its capacity to process the increased requests for international protection, gaps therein, and its consequent needs;

(k) the material, operational, human resource, and financial capacities of the Member State concerned, including gaps therein, and its consequent needs;

(l) Member States implementation of their contingency plans adopted in accordance with Article 1e of this Regulation;

(m) other the information provided by the Member State concerned;

(n) the support provided by Union Agencies and the Union budget to the Member State being assessed.

6. The assessment of a situation of crisis shall also take into account, more generally, the following elements:

(a) the geopolitical situation in relevant third countries that may affect migratory movements;

(b) the relevant Recommendations provided for in Article 15 of Council Regulation (EU) No 1053/2013, Article 15 of Regulation (EU) 2021/2303 and Article 32(7) of Regulation (EU) 2019/1896, and the relevant Council decisions adopted under Article 22 of Regulation (EU) 2021/2303;

(c) the Integrated Situational Awareness and Analysis (ISAA) reports under Council Implementing Decision (EU) 2018/1993 on the EU Integrated Political Crisis Response Arrangements, provided that the Integrated Political Crisis Response is activated or the Migration Situational Awareness and Analysis (MISAA) report issued under the first stage of the Migration Preparedness and Crisis Blueprint, when the Integrated Political Crisis Response is not activated.

**Amendment 72
Proposal for a regulation
Article 1 c (new)**

Text proposed by the Commission

Amendment

Article 1c

Decision on a situation of crisis

- 1. The Commission shall adopt a reasoned decision on a situation of a crisis within one week following either the request for an assessment carried out pursuant to Article 1b(1), points (a) and (b) or the notification referred to in Article 1b(2), and after consultation with the EU Relocation Coordinator and the EUAA.***
- 2. In its decision, the Commission shall indicate whether the Member State concerned is in a situation of crisis.***
- 3. Where the Commission concludes that the Member State concerned is in a situation of crisis, the decision on a situation of crisis shall identify:***
 - (a) the capacity of the asylum, reception and , child-protection, and integration system of the Member State concerned, as well as its overall material, operational and human resource needs in managing its asylum caseload;***
 - (b) the measures to be taken by the Member State concerned in the field of***

migration management, and in particular in the field of asylum, in order to respond to a situation of crisis and to fulfil its obligations under the Union acquis, including possible additional support from the EUAA, UNHCR and IOM;

(c) the appropriate total amount of relocation contributions needed under the mandatory relocation scheme to address the situation of crisis and the expected timeframe for the implementation of those contributions, as well as the categories of persons as referred to in Article 2a(1) to be relocated by the contributing Member States;

(d) the total amount of relocation contributions to be taken from the annual solidarity pool established in accordance with Article 45a of Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation];

(e) where the total amount of relocation contributions needed to address the situation of crisis referred to in point c), exceeds the remaining relocation contributions in the annual solidarity pool referred to in point (d), the amount of additional relocation contributions to be provided, as well as the categories of persons to be relocated;

(f) whether the procedure of prima facie granted international protection is applicable, pursuant to Article 10(4), and, if applicable, define the category (ies) of applicants to be granted prima facie international protection; their specific country of origin, or, in the case of stateless applicants, their country of former habitual residence or part(s) of it, or a part of a specific country of origin of country or former residence, or the specific group of applicants on the basis of other well-defined criteria, drawn from Regulation (EU) XXX/XXX [Qualification Regulation];

(g) whether one or more of the derogations referred to in Articles 4, 5, 6,

8a and 9a of this Regulation are to be applied;

5. The Commission shall adopt the decision on a situation of crisis by means of a delegated act in accordance with Article 12a.

6. As, in a situation of crisis, imperative grounds of urgency so require, the procedure provided for in Article 12b shall apply to delegated acts adopted pursuant to this Article.

7. The measures provided for in the delegated act referred to in paragraph 5 shall apply from the day of the entry into force of that act and shall continue to apply until the adoption of a delegated act establishing that the situation of crisis has ended.

8. The Commission shall report to the European Parliament and the Council on the implementation of the delegated act every three months after its entry into force. That report shall contain an analysis of the effectiveness of the measures undertaken in resolving the situation of crisis.

**Amendment 73
Proposal for a regulation
Article 1 d (new)**

Text proposed by the Commission

Amendment

Article 1d

End of a situation of crisis

1. The Commission shall constantly monitor whether a situation of crisis identified in accordance with Article 1c persists. Article 1b(3) and (4) shall apply to that monitoring.

2. Where the Commission concludes that the Member State concerned is no longer in a situation of crisis, it shall adopt a delegated act in accordance with Article 12b to establish the end of the

situation of crisis, thereby ending the application of all the measures triggered by this Regulation.

Amendment 74
Proposal for a regulation
Article 1 e (new)

Text proposed by the Commission

Amendment

Article 1 e

Crisis preparedness

1. For the purposes of this Regulation, the Member States national strategies established in accordance with Article 5 of Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation] shall also include

(a) contingency planning to ensure a sufficient level of preparedness in a situation of crisis, taking into account the contingency planning pursuant to Regulation (EU) 2021/2303, Regulation (EU) 2019/1896 and Directive (EU) XXX/XXX [Reception Conditions Directive] and the reports of the Commission issued within the framework of the Migration Preparedness and Crisis Blueprint; the planning shall include an analysis of measures needed to respond to and resolve a situation of crisis in the Member State concerned, including measures to protect the rights of applicants for and beneficiaries of international protection and other forms of protection.

(b) the results of the monitoring undertaken by the EUAA and the European Border and Coast Guard Agency, of the evaluation carried out in accordance with Council Regulation (EU) No 2022/922 as well as of the monitoring carried out in accordance with Article 7 of Regulation (EU) XXX/XXX [Screening Regulation].

The national strategies shall take into account other relevant strategies and existing support measures in particular those support measures under Regulation (EU) 2021/1147 of the European Parliament and of the Council and Regulation (EU) 2021/2303 and be coherent with and complementary to the national strategies for European integrated border management established in accordance with Article 8(6) of Regulation (EU) 2019/1896.

When establishing their national strategies, Member States shall consult local and regional authorities.

Member States shall transmit their national asylum and migration management strategies to the Commission six months before the adoption of the long-term European Asylum and Migration Management Strategy in accordance with Article 4 of Regulation XXX/XXX [Asylum and Migration Management Regulation].

2. Member States shall transmit annually to the Commission their updated contingency planning pursuant to point (a) of paragraph 1 of this Article. The Commission shall assess the measures included in the contingency plan, and make recommendations to the Member State, with a view to supporting the Member State concerned in ensuring a sufficient level of preparedness in a situation of crisis and foster future resilience.

Amendment 75
Proposal for a regulation
Article 2

Text proposed by the Commission

Article 2

Solidarity in situations of crisis

Amendment

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1. *For the purpose of providing solidarity contributions for the benefit of a Member State in situations of crisis as set out in Article 1(2)(a), Part IV of Regulation (EU) XXX/XXX [Asylum and Migration Management] shall apply mutatis mutandis, with the exception of Article 45(1), point (d), Article 47, Article 48, Article 49, Article 51(3)(b)(iii) and (4), Article 52(2) and (5) and Article 53(2), second and third subparagraphs.*
2. *By way of derogation from Article 50(3), the assessment referred to in that paragraph shall cover the situation in the Member State concerned during the preceding [one] month.*
3. *By way of derogation from Articles 51(1), 52(3) and 53(1) of Regulation (EU) XXX/XXX [Asylum and Migration Management], the deadlines set in those provisions shall be shortened to one week.*
4. *By way of derogation from Article 51(2) of Regulation (EU) XXX/XXX [Asylum and Migration Management] the report referred to therein shall indicate whether the Member State concerned is in a situation of crisis as defined in Article 1(2)(a) of this Regulation.*
5. *By way of derogation from Article 51(3)(b)(ii), Article 52(1) and 52(3) first sub-paragraph and Article 53(3)(a) of Regulation (EU) XXX/XXX [Asylum and Migration Management], relocation shall include not only persons referred to in points (a) and (c) of Article 45(1) of that Regulation, but also persons referred to in points (a) and (b) of Article 45(2).*
6. *By way of derogation from Article 54 of Regulation (EU) XXX/XXX [Asylum and Migration Management], the share calculated in accordance with the formula set out in that Article shall also apply to measures set out in Article 45(2), points (a) and (b) of that Regulation.*
7. *By way of derogation from Article 55(2) of Regulation (EU) XXX/XXX*

[Asylum and Migration Management], the deadline set therein shall be set at four months.

Amendment 76
Proposal for a regulation
Article 2 a (new)

Text proposed by the Commission

Amendment

Article 2a

Solidarity Response Plans in a situation of crisis

1. Where the decision referred to in Article 1c indicates that a Member State is in a situation of crisis, the contributing Member States, which are not themselves benefitting Member States, shall contribute through the mandatory relocation of applicants for international protection, regardless of whether such applicants are subject to the border procedure, and of beneficiaries of international protection who have been granted international protection less than three years before the adoption of the implementing act referred to in Article 2b, Member States shall prioritise the relocation of vulnerable persons, in particular unaccompanied minors and victims of trafficking, and, in case of a situation of crisis, beneficiaries of prima facie international protection granted in accordance with Article 10.

2. Where the total amount of relocation contributions needed to address the situation of crisis referred to in Article 1c(3), point (c), exceeds the remaining relocation contributions in the annual solidarity pool referred to in point Article 1c(3), point (d), Member States shall submit to the Commission a Solidarity Response Plan five days of the adoption of the decision on the situation of crisis referred to in Article 1c(5). The Solidarity Response Plan shall indicate the Member

State's proposed amount of relocation contributions, and the category (ies) of persons to be relocated pursuant paragraph 1 of this Article. Member States shall also indicate their specific reception capacity for vulnerable persons, the detailed arrangements and timeframe for the implementation of their proposed relocation contributions.

Amendment 77
Proposal for a regulation
Article 2 b (new)

Text proposed by the Commission

Amendment

Article 2 b

Commission implementing act on mandatory relocation to be undertaken in a situation of crisis

1. Where Article 2a is applicable, the Commission shall adopt an implementing act, within one week of the entry into force of the delegated act referred to in Article 1c(5), setting out:

(a) the distribution of the additional relocation contributions as established in the decision on a situation of crisis pursuant to Article 1c(3), point (e) among the contributing Member States, on the basis of the reference key set out in Article 2c, or, where a Solidarity Response Plan proposes relocation contributions higher than the minimum share of a contributing Member State pursuant to Article 2c, on the basis of the proposed relocation contributions listed in the Solidarity Response Plan for that Member State;

(b) the distribution of the different categories of persons to be relocated as established in the decision on a situation of crisis pursuant to Article 1c(3), point (c), among the contributing Member States, in accordance with the Solidarity

Response Plans.

(c) where one or more Member States have not submitted a Solidarity Response Plan, the mandatory share of relocation contributions of the Member State or Member States concerned, taking into account the needs identified in the decision on the situation of crisis pursuant to Article 1c and in accordance with the reference key set out in Article 2c.

(d) where the Commission considers that the amount of relocation contributions or the categories of persons pursuant to Article 2a(1) indicated in the Solidarity Response Plans do not correspond to the needs identified in the decision on the situation of crisis pursuant to Article 1c, the Commission shall upgrade the relocation contributions proposed in the respective Solidarity Response plans to the mandatory share of relocation contributions of the Member States concerned in accordance with the reference key set out in Article 2c.

2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(2).

3. On duly justified imperative grounds of urgency, due to a situation of crisis, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 12(3).

4. The measures provided for in the implementing act shall be applicable as from the day of the entry into force of that act, and shall continue to apply until the situation of crisis is ended pursuant to Article 1d.

5. The Commission shall report on the application of the implementing act every three months after its entry into force. That report shall contain an analysis of the effectiveness of the

measures undertaken.

Amendment 78
Proposal for a regulation
Article 2 c (new)

Text proposed by the Commission

Amendment

Article 2c

Reference key

1. The share of relocation contributions of each contributing Member State pursuant to Article 2b shall be calculated by the EUAA, in accordance with the formula based on the following criteria for each Member State, according to the latest available Eurostat data:

(a) the size of the population(50% weighting);

(b) the total GDP(50% weighting);

2. Where relocation contributions have been made by a contributing Member State in response to a request by a benefitting Member State for relocation support in order to prevent a situation of crisis on its territory within the two months preceding the notification referred to in Article 1b(2), and where they correspond to relocation measures set out in the decision on a situation of crisis pursuant to Article 1c, point (e), the Commission shall deduct those contributions from that contributing Member State's share calculated in accordance with the distribution reference key referred to in paragraph 1.

Amendment 79
Proposal for a regulation
Article 2 d (new)

Text proposed by the Commission

Amendment

Article 2d

EU Relocation Coordinator

1. With a view to supporting mandatory relocation as established in this Regulation, the EU Relocation Coordinator, as established by Article 58a of Regulation (EU)XXX/XXX [Asylum and Migration Management Regulation], shall, in addition to the tasks listed under that Article :

(a) remain in close contact with the asylum authorities in the benefitting Member State, in charge of implementing the prima facie granting of international protection, in accordance with Article 1c (3), point (a), in view of coordinating and supporting their relocation in accordance with Article 1c(3), point (c) ;

(b) coordinate the cooperation between Member States and between the relevant Agencies, in all relocation efforts, in particular in the relocation of the prioritised categories, referred to in Article 2a(1) ;

(c) promote coherent working methods for the verification of any meaningful links with certain Member States for persons eligible for relocation in coordination with the EUAA;

(d) promote a culture of preparedness, cooperation and resilience among Member States in the field of asylum and migration, including through the sharing of their best practices.

2. With a view to exercising his or her tasks, the EU Relocation coordinator shall be updated by the EU Migration Preparedness and Crisis Management Network in the framework of the relevant stages of the Migration Preparedness and Crisis Blueprint.

3. By way of derogation of Article 58a(3) of Regulation (EU)XXX/XXX [Asylum and Migration Management Regulation], the EU Relocation Coordinator shall, every two weeks, provide a bulletin on the state of the

implementation and functioning of the relocation mechanism. That bulletin shall be transmitted to the European Parliament and to the Council.

Amendment 80
Proposal for a regulation
Article 2 e (new)

Text proposed by the Commission

Amendment

Article 2e

Procedure before relocation

1. Where relocation is applicable, the benefitting Member State shall identify the persons who could be relocated, in cooperation with the EU Relocation Coordinator and the EUAA, and under the coordination of the Commission.

2. The rules set out in Articles 14 to 25 of the Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation] shall not apply to applicants eligible for relocation.

3. The contributing Member State shall be determined on the basis of the existence of meaningful links between the person concerned and the contributing Member State. Meaningful links shall be considered to exist where information provided by the applicants contains sufficient indicators for their establishment and where that information does not give rise to doubts regarding the existence of such meaningful links.

The meaningful links shall be applied in the hierarchical order set out below in Articles 15 to 21 and Article 24 of Regulation (EU) XXX/XXX [Asylum and Migration Management]:

For the purposes of this Regulation, a relative means ‘the applicant’s or beneficiary’s adult children, siblings, cousins, adult aunt or uncle or grandparent who is present in the

territory of a Member State, regardless of whether the applicant or beneficiary was born in or out of wedlock or adopted as defined under national law’;

Where no meaningful links can be identified, the preference of the applicant or beneficiary of international protection or of groups of applicants or beneficiaries of international protection shall, when possible, be taken into account in the relocation process.

4. Where the person to be relocated is a beneficiary of international protection, the person concerned shall be relocated only after that person consents to relocation in writing.

5. The ‘best interests of the child’ shall be a primary consideration when conducting relocation. In assessing the best interests of the child, Member States’ authorities shall take due account of the principle of family unity throughout the whole procedure.

6. The benefitting Member State shall transmit to the contributing Member State as quickly as possible the relevant information and documents on the persons referred to in paragraph 1.

7. Within one week of receipt of the information pursuant to paragraph 6, the contributing Member State shall examine the information transmitted by the benefitting Member State and may check whether there are any reasonable grounds to consider the person concerned a threat to its internal security.

8. Where, following the check referred to in paragraph 7, the contributing Member State finds that there are no reasonable grounds to consider the person concerned a threat to its internal security, it shall confirm, within one week of receipt of the information pursuant to paragraph 6, that it will relocate the person concerned.

Where, following the check referred to in paragraph 7, the contributing Member State finds that there are reasonable grounds to consider the person concerned a threat to its internal security, it shall notify, within one week of receipt of the information pursuant to paragraph 6, the benefitting Member State of the form of the threat and the underlying elements for an alert from any relevant database within one week of that check. In such cases, the relocation of the person concerned shall not take place.

Where the contributing Member State fails to comply with the time-limits referred to in the first and second subparagraph of this paragraph, receipt of the information shall be considered to be confirmed and the contributing Member State shall relocate and provide for proper arrangements for the arrival of the person concerned.

9. The benefitting Member State shall take a transfer decision within one week of receipt of the notification of the contributing Member State pursuant to paragraph 8 that there are no reasonable grounds to consider the person concerned a threat to its internal security. It shall notify the person concerned in writing without delay of the decision to transfer that person to the contributing Member State.

10. The transfer of the person concerned from the benefitting Member State to the contributing Member State shall be carried out in accordance with the national law of the benefitting Member State, after consultation between the Member States concerned, as soon as practically possible, and at the latest within three weeks of the transfer decision pursuant to paragraph 9 by the contributing Member State.

11. Articles 32(3), (4) and (5), Articles 33 and 34, Article 35(1) and (3), Article 36(2) and(3), and Articles 37 and 39 of

Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation] shall apply mutatis mutandis to the transfer for the purpose of relocation.

**Amendment 81
Proposal for a regulation
Article 2 f (new)**

Text proposed by the Commission

Amendment

Article 2 f

Procedure after relocation

- 1. The contributing Member State shall inform the benefitting Member State, the EU relocation coordinator and the EUAA whether the person concerned arrived within the set time limit.***
- 2. Where the contributing Member State has relocated an applicant for international protection, that Member State shall also be the Member State responsible for examining the application for international protection. The contributing Member State shall indicate its responsibility in Eurodac pursuant to Article 11(1) of Regulation (EU) XXX/XXX [Eurodac Regulation].***
- 3. Where the contributing Member State has relocated a beneficiary of international protection, the contributing Member State shall automatically grant the corresponding international protection status to that person.***

**Amendment 82
Proposal for a regulation
Article 2 g (new)**

Text proposed by the Commission

Amendment

Article 2g

Operational Coordination

Upon request of the benefitting Member

State, and in full cooperation and coordination with the EU Relocation Coordinator and the EUAA, the Commission shall coordinate the operational aspects of the relocation contributions proposed by the contributing Member States, including

(a) any assistance by experts or teams deployed by the EUAA or the European Border and Coast Guard Agency;

(b) organising, at regular intervals, meetings between the authorities of different Member States, to establish the needs, including at an operational level;

(c) taking stock of reception facilities needs for persons arriving at the external borders, in accordance with standards established in Directive XXX/XXX/EU [Receptions Conditions Directive recast];

The EUAA shall provide operational assistance to ensure the smooth implementation of the relocation procedures. Member States shall rely on the EUAA for assistance in training, operational and technical assistance and with regard to the operation of the migration management teams on the basis of Articles 16 and 21 of Regulation (EU) 2021/2303.

Amendment 83
Proposal for a regulation
Article 2 h (new)

Text proposed by the Commission

Amendment

Article 2h

Support from Union bodies, offices and agencies

1. The Union bodies, offices and agencies acting in the field of asylum, border and migration management shall, within their respective mandates, provide support to the Member States and the Commission with a view to ensuring the

proper implementation and functioning of this Regulation.

For the purpose of the first subparagraph, the relevant Union bodies, offices and agencies may provide competent authorities in the Member States with analysis, expertise and operational support.

2. Where requested by a Member State, a Union body, office or agency shall provide it with support. The Commission or a Union body, office or agency may, on its own initiative, propose to provide a specific Member State with support.

Amendment 84
Proposal for a regulation
Article 2 i (new)

Text proposed by the Commission

Amendment

Article 2i

Financial support

1. Funding pursuant to Article 11(9) and Annex II (2.)(d) of Regulation (EU) 2021/1147 shall be allocated to local and regional authorities and organisations of the contributing Member States supporting integration following relocation.

2. Emergency funding support for a Member State in a situation of crisis may be allocated pursuant to Article 31(1), point (a) of Regulation (EU) 2021/1147, including for the construction, maintenance and renovation of reception facilities required for the application of this Regulation, in line with the standards provided for in Directive XXX/XXX/EU [Reception Conditions Directive].

Amendment 85
Proposal for a regulation
Article 3

[...]

deleted

Amendment 86
Proposal for a regulation
Article 4 – paragraph 1

Text proposed by the Commission

Amendment

1. In a *crisis* situation *as referred to in Article 1(2)*, and in accordance with the procedures laid down in Article 3, Member States may, as regards applications made within the period during which this Article is applied, derogate from Article 41 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation] *as follows:*

1. In a situation *of crisis*, and in accordance with the procedures laid down in Article *1c(3), point (d)*, Member States may, as regards applications made within the period during which this Article is applied, derogate from Article 41(*11*) *and (13)* of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], *by prolonging the maximum duration of the border procedure for the examination of applications set out in that Article by an additional period of maximum four weeks. Following that period, the applicant shall be authorised to enter the Member State's territory for the completion of the procedure for international protection.*

(a) *By way of derogation from Article 41(2)(b) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], Member States may in a border procedure take decisions on the merits of an application in cases where the applicant is of a nationality, or, in the case of stateless persons, a former habitual resident of a third country, for which the proportion of decisions granting international protection by the determining authority is, according to the latest available yearly Union-wide average Eurostat data, 75% or lower, in addition to the cases referred to in Article 40(1) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation];*

(b) *By way of derogation from Article 41(11) and (13) of Regulation (EU)*

XXX/XXX [Asylum Procedures Regulation], the maximum duration of the border procedure for the examination of applications set out in that Article may be prolonged by an additional period of maximum eight weeks. Following this period, the applicant shall be authorised to enter the Member State's territory for the completion of the procedure for international protection.

Amendment 87
Proposal for a regulation
Article 4 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Applicants in a vulnerable situation, including due to their state of health, minor applicants and their family members, shall be always excluded from the asylum crisis management border procedure. The best interests of the child and family life and of the third-country national concerned shall be taken into account throughout the procedure.

Amendment 88
Proposal for a regulation
Article 4 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. For applicants to whom the prima facie international protection is applicable in accordance with this Regulation, the asylum procedure referred to in Article 10 shall apply.

Amendment 89
Proposal for a regulation
Article 4 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1c. During the asylum crisis management procedure, the basic principles of the right to asylum and the respect of the principle of non-refoulement as well as the guarantees foreseen in Chapter II of the Regulation (EU) XXX/XXX [Asylum Procedures Regulation] shall apply to ensure that the rights of those who seek international protection, including the right to an effective remedy, are protected. Asylum staff, medical staff, legal representatives, non-governmental organisations, and Union institutions and agencies shall always be allowed to access border procedure facilities.

Amendment 90
Proposal for a regulation
Article 4 – paragraph 1 d (new)

Text proposed by the Commission

Amendment

1d. The Member State in a situation of crisis shall provide for additional and sufficient human and material resources to be able to meet its obligations under Directive XXX/XXX/EU [Reception Conditions Directive].

Amendment 91
Proposal for a regulation
Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. In a **crisis** situation **as referred to in Article 1(2)**, and in accordance with the procedures laid down in Article 3, Member States may, in respect of **illegally** staying third-country nationals or stateless persons whose applications were rejected in the context of the asylum crisis management procedure pursuant to Article 4, and who have no right to remain and are not allowed to remain, derogate from Article 41a of Regulation (EU) XXX/XXX [Asylum

1. In a situation **of crisis**, and in accordance with the procedures laid down in Article **1c(3), point (d)**, Member States may, in respect of **irregularly** staying third-country nationals or stateless persons whose applications were rejected in the context of the asylum crisis management procedure pursuant to Article 4, and who have no right to remain and are not allowed to remain, derogate from Article 41a of Regulation (EU) XXX/XXX [Asylum

Procedures Regulation] as follows:

Amendment 92

Proposal for a regulation

Article 5 – paragraph 1 – point a

Text proposed by the Commission

(a) By way of derogation from Article 41a(2) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], the maximum period during which third-country nationals or stateless persons shall be kept at the locations referred to in that Article may be prolonged by an additional period of maximum **eight** weeks;

Amendment 93

Proposal for a regulation

Article 5 – paragraph 1 – point b

Text proposed by the Commission

(b) By way of derogation from Article 41a(7) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], the period of detention set in that Article shall not exceed the period referred to in point (a);

Amendment 94

Proposal for a regulation

Article 5 – paragraph 1 – point c

Text proposed by the Commission

(c) ***In addition to the cases provided for by Article 6(2) of Directive XXX [recast Return Directive], Member States shall establish that a risk of absconding is presumed in an individual case, unless proven otherwise, when the criterion referred to in Article 6(1), point (f) of***

Procedures Regulation] as follows:

Amendment

(a) By way of derogation from Article 41a(2) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], the maximum period during which third-country nationals or stateless persons shall be kept at the locations referred to in that Article may be prolonged by an additional period of maximum **four** weeks;

Amendment

(b) By way of derogation from Article 41a(7) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], the period of detention set in that Article shall not exceed the period referred to in point (a) ***and shall be included in the maximum periods of detention set in Article 15 (5) and (6) of Directive XXX/XXX/EU [Return Directive].***

Amendment

deleted

Directive XXX [recast Return Directive] is fulfilled or when the applicant, third-country national or stateless person concerned is manifestly and persistently not fulfilling the obligation to cooperate established by Article 7 of that Directive.

Amendment 95
Proposal for a regulation
Article 5 – paragraph 2

Text proposed by the Commission

Amendment

2. *Paragraph 1 shall also apply to applicants, third-country nationals and stateless persons subject to the procedure referred to in Article 41 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation] whose application has been rejected before the adoption by the Commission of a decision issued in accordance with Article 3 of this Regulation, and who have no right to remain and are not allowed to remain after the adoption of that decision.*

deleted

Amendment 96
Proposal for a regulation
Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. *Asylum staff, medical staff, legal representatives, non-governmental organisations, and Union institutions and agencies shall always be allowed to access border procedure facilities.*

Amendment 97
Proposal for a regulation
Article 6 – paragraph 1

Text proposed by the Commission

Amendment

In a crisis situation as referred to in Article 1(2)(a) and in accordance with the

1. *In a situation of crisis, applications made within four weeks from the adoption*

procedure laid down in Article 3, applications made within *the period during which this Article is applied* shall be registered *no later than* within four weeks from when they are made by way of derogation from Article 27 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation].

of the delegated act referred to in Article 1c shall be registered within *a period of four weeks* from when they are made, *in accordance with Article 25 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation]*, by way of *a single and temporary* derogation from Article 27 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation].

Amendment 98
Proposal for a regulation
Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. *The Member State in a situation of crisis shall request the assistance of all authorities that are able to increase, at short notice, the human resources of its responsible authorities in accordance with Article 5(3) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation] and the assistance of experts deployed by the EUAA in accordance with Article 5(4), point (b) of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], and Article 16(2), point (b) and Article 21(3), point (d) of Regulation (EU) 2021/2303.*

Amendment 99
Proposal for a regulation
Article 6 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. *In accordance with Article 3 of Directive XXX/XXX/EU [Reception Conditions Directive] and Regulation (EU) XXX/XXX [Asylum Procedures Regulation], Member States shall ensure that applicants for international protection are able to access and exercise their rights effectively under those instruments as soon as they make an application, regardless of when the*

registration takes place.

The responsible authority of the Member State in a situation of crisis shall provide the applicant with a document in a language that the applicant understands or is reasonably supposed to understand, indicating the moment of the making of the application.

Amendment 100
Proposal for a regulation
Chapter IV – title

Text proposed by the Commission

Amendment

Timelimits in a situation of force majeure *deleted*

Amendment 101
Proposal for a regulation
Article 7

Text proposed by the Commission

Amendment

Article 7 *deleted*

Extension of registration time limit set out in Regulation (EU) XXX/XXX [Asylum Procedures Regulation]

1. Where a Member State is facing a situation of force majeure which renders it impossible to comply with the time limits set out in Article 27 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], that Member State shall notify the Commission. After such notification, by way of derogation from Article 27 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], applications may be registered by that Member State no later than four weeks from when they are made. In the notification, the Member State concerned shall indicate the precise reasons for which it considers that this paragraph has to be applied and indicate the period of time during which it will be applied.

2. *Where a Member State referred to in paragraph 1 is no longer facing a situation of force majeure as referred to in that paragraph which renders it impossible to comply with the time limits set out in Article 27 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], that Member State shall, as soon as possible, notify the Commission of the termination of the situation. After such notification, the extended time limit set out in paragraph 1 shall no longer be applied.*

Amendment 102
Proposal for a regulation
Article 8

Text proposed by the Commission

[...]

Amendment

deleted

Amendment 103
Proposal for a regulation
Article 8 a (new)

Text proposed by the Commission

Amendment

Article 8a

Postponement of transfers procedures referred to in Section IV, Chapter V of Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation]

A requesting Member State shall not carry out a transfer to a Member State in a situation of crisis pursuant to Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation], except on the basis of Articles 15 to 18 and 24 of that Regulation, until the Member State responsible is no longer in a situation of crisis. Once the transfer has been pending for six month, cessation of responsibility for the Member State in a situation of crisis shall apply. Such cessation of responsibility shall be

without prejudice to the possibility for the requesting Member State to assume responsibility at any time for the applicant in respect of whom the transfer was pending. The applicant subject to the transfer shall benefit from the reception conditions set out in Article 16 of Directive (EU) XXX/XXX [Reception Conditions Directive].

Amendment 104
Proposal for a regulation
Article 9

Text proposed by the Commission

Amendment

Article 9

deleted

Extension of the timeframes for solidarity measures

1. Where a Member State is facing a situation of force majeure which renders it impossible to comply with the obligation to undertake solidarity measures within the timeframes established in Articles 47 and 53(1) of Regulation (EU) XXX/XXX [Asylum and Migration Management] and Article 2 of this Regulation, it shall notify the Commission and the other Member States without delay. The Member State concerned shall indicate the precise reasons for which it considers that it is facing a situation of force majeure and provide all necessary information for that effect. After such notification, by way of derogation from the timeframes established by those Articles, the timeframe for undertaking solidarity measures established in those Articles shall be suspended for a maximum period of six months.

2. Where a Member State is no longer facing a situation of force majeure, that Member State shall immediately notify the Commission and the other Member States of the cessation of the situation. After such notification, the

extended timeframe set out in paragraph 1 shall cease to apply.

Amendment 105
Proposal for a regulation
Article 9 a (new)

Text proposed by the Commission

Amendment

Article 9 a

Exemption of obligations as regards relocation in a situation of crisis

The Member State in a situation of crisis shall be exempted from its obligation to undertake relocation pursuant to Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation] and Articles 1c and 2b of this Regulation.

Amendment 106
Proposal for a regulation
Chapter V – title

Text proposed by the Commission

Amendment

Granting of *immediate* protection

Granting of *prima facie international* protection

Amendment 107
Proposal for a regulation
Article 10 – title

Text proposed by the Commission

Amendment

Granting of *immediate* protection *status*

Granting *prima facie international* protection

Amendment 108
Proposal for a regulation
Article 10 – paragraph 1

Text proposed by the Commission

Amendment

1. In a *crisis* situation *as* referred to in

1. In a situation of *of crisis, and on the*

Article 1(2)(a), and on the basis of an implementing act adopted by the Commission in accordance with paragraph 4 of this Article, Member States may suspend the examination of applications for international protection in accordance with Regulation (EU) XXX/XXX [Asylum Procedures Regulation] and Regulation (EU) XXX/XXX [Qualification Regulation] in respect of *displaced persons from third countries who are facing a high degree of risk of being subject to indiscriminate violence, in exceptional situations of armed conflict, and who are unable to return to their country of origin. In such a case, Member States shall grant immediate protection status to the persons concerned, unless they represent a danger to the national security or public order of the Member State. Such status shall be without prejudice to their ongoing application for international protection in the relevant Member State.*

basis of the delegated act referred to in Article 1c(1) and (5), Member States shall grant, prima facie, international protection in accordance with Regulation (EU) XXX/XXX [Qualification Regulation], in respect of applicants identified in paragraph 4, point (c) of this Article.

Amendment 109
Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

Amendment

2. *Member States shall ensure that beneficiaries of immediate protection have effective access to all the rights laid down in Regulation (EU) XXX/XXX [Qualification Regulation] applicable to beneficiaries of subsidiary protection.*

deleted

Amendment 110
Proposal for a regulation
Article 10 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. *Consultations with the relevant Union Agencies, UNHCR and other relevant organisations shall take place*

ahead of the adoption of the delegated act.

Amendment 111
Proposal for a regulation
Article 10 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States shall resume the examination of the applications for international protection that have been suspended pursuant to paragraph 1 after a maximum of one year.

deleted

Amendment 112
Proposal for a regulation
Article 10 – paragraph 4 – introductory part

Text proposed by the Commission

Amendment

4. The Commission shall, *by means of an implementing decision*:

4. *For the purposes of paragraph 1, in the delegated act*, the Commission shall:

Amendment 113
Proposal for a regulation
Article 10 – paragraph 4 – point a

Text proposed by the Commission

Amendment

(a) establish *that* there is a *situation of crisis on the basis of the elements referred to in Article 3*;

(a) establish *if* there is a *need to apply prima facie international protection to a certain category (ies) of applicants*.

Amendment 114
Proposal for a regulation
Article 10 – paragraph 4 – point b

Text proposed by the Commission

Amendment

(b) *establish that there is a need to suspend the examination of applications for international protection*;

deleted

Amendment 115
Proposal for a regulation
Article 10 – paragraph 4 – point c

Text proposed by the Commission

(c) define the specific country of origin, or a part of *a specific country of origin, in respect of the persons referred to in paragraph 1;*

Amendment

(c) define the specific country of origin *or country of former habitual residence*, or a part of *that country*, *or the specific group of applicants to be granted prima facie international protection on the basis of other, well-defined criteria, drawn from Regulation (EU) XXX/XXX [Qualification Regulation], ensuing from readily apparent, objective circumstances.*

Amendment 116
Proposal for a regulation
Article 10 – paragraph 4 – point d

Text proposed by the Commission

(d) *establish the date from which this Article shall be applied and set out the time period during which applications for international protection of displaced person as referred to in point (a) may be suspended and immediate protection status shall be granted.*

Amendment

deleted

Amendment 117
Proposal for a regulation
Article 10 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. *The examination of the applications pursuant to this Article shall be limited to determining whether the applicant falls within the category (ies) of persons as defined in the delegated act pursuant to paragraph 4, point (c) of this Article, and to determining whether exclusion grounds laid down in Articles 12 and 18 of Regulation (EU) XXX/XXX [Qualifications Regulation] apply.*

Amendment 118
Proposal for a regulation
Article 10 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4b. By way of derogation from Article 34 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], the procedure for the cases referred to in paragraph 4 of this Article shall not take longer than one month from the date of registration.

Amendment 119
Proposal for a regulation
Article 10 – paragraph 4 c (new)

Text proposed by the Commission

Amendment

4c. The applicants referred to in paragraph 1 of this Article shall be granted international protection, unless they fall under the exclusion grounds laid down in Articles 12 and 18 of Regulation (EU) XXX/XXX [Qualification Regulation].

Amendment 120
Proposal for a regulation
Article 10 – paragraph 4 d (new)

Text proposed by the Commission

Amendment

4d. Applicants for prima facie international protection shall be granted all of the rights and guarantees, to which applicants are entitled in accordance with Regulation (EU) XXX/XXX [Asylum Procedures Regulation], including the right to information and to an effective remedy.

Amendment 121
Proposal for a regulation

Article 10 – paragraph 4 e (new)

Text proposed by the Commission

Amendment

4e. Member States shall provide applicants, in accordance with Article 29 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], and persons granted prima facie international protection, in accordance with Article 8 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation] and Article 26 of Regulation (EU) XXX/XXX [Qualification Regulation], with a document certifying their status in a language they can understand.

Amendment 122

Proposal for a regulation

Article 10 – paragraph 4 f (new)

Text proposed by the Commission

Amendment

4f. Where the Member State's determining authority, in accordance with Article 3 of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], has established that an applicant for international protection is a threat to internal security, that Member State may choose not to apply prima facie international protection in respect of that applicant. In such circumstances, the application shall be examined in accordance with Articles 34 and 37 of Regulation (EU) XX/XXX [Asylum Procedures Regulation].

Amendment 123

Proposal for a regulation

Article 10 – paragraph 4 g (new)

Text proposed by the Commission

Amendment

4g. Beneficiaries of international protection granted in accordance with this Article shall have effective access to all

the rights laid down in Regulation (EU) XXX/XXX [Qualification Regulation], corresponding to their protection status.

Amendment 124
Proposal for a regulation
Article 10 – paragraph 4 h (new)

Text proposed by the Commission

Amendment

4h. *The delegated act referred to in Article 1c(5), establishing the categories of applicants eligible for prima facie international protection pursuant to paragraph 4, point (c) of this Article shall be reviewed at least every three months. Where the situation has changed, a revised delegated act may be adopted. The review shall be based on updated country of origin, or former habitual residence information, or updated information on the relevant specific groups eligible for prima facie international protection.*

Amendment 125
Proposal for a regulation
Article 10 – paragraph 4 i (new)

Text proposed by the Commission

Amendment

4i. *A decision to end the situation of crisis, and therefore the end of application of prima facie international protection for new applications, shall not affect the pending applications on the basis of this Article, nor the status of those who have been granted prima facie international protection under this Article. Beneficiaries of subsidiary protection shall always have the right to apply, for refugee status, in accordance with Regulation (EU) XXX/XXX [Qualification Regulation].*

Amendment 126

**Proposal for a regulation
Chapter V a (new)**

Text proposed by the Commission

Amendment

Chapter Va

**AMENDMENT OF REGULATION (EU)
2021/1147**

Article 10a

Regulation (EU) 2021/1147 is amended as follows:

(1) In Chapter II, Section 2, Article 20a is inserted:

Article 20a

Resources for the transfer of applicants for international protection or of beneficiaries of international protection in a situation of crisis

- 1. A Member State shall receive, in addition to its allocation under Article 13(1) of this Regulation, an additional amount of EUR 10 000 for each applicant for international protection or beneficiary of international protection transferred from another Member State in accordance with Article 2d of Regulation (EU) XXX/XXX [Crisis Regulation] of the European Parliament and of the Council*, or as a result of similar forms of relocation.***
- 2. Where appropriate, Member States shall also be eligible to receive the amount referred to in paragraph 1 of this Article for each family member of persons referred to in that paragraph, provided that those family members have been transferred to ensure family unity in accordance with Article 25 of Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation], or have been transferred as a result of similar forms of relocation.***
- 3. The amounts referred to in paragraphs 1 and 2 shall be increased to EUR [12 000] for each unaccompanied***

minor relocated in accordance with Article 2d of Regulation (EU) XXX/XXX [Crisis Regulation] or Article 25 of Regulation (EU) XXX/XXX [Asylum and Migration Management Regulation].

4. The Member State covering the cost of transfers referred to in paragraphs 1, 2 and 3 shall receive a contribution of EUR 500 for each applicant for international protection or beneficiary of international protection transferred to another Member State.

5. A Member State shall receive the amounts referred to in paragraphs 1 to 3 for each person provided that the relocation of that person has taken place. Those amounts shall not be used for other actions in the Member State's programme except in duly justified circumstances, as approved by the Commission through the amendment of that programme.

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. For the purposes of control and audit, Member States shall retain the information necessary to allow the proper identification of the persons transferred and of the date of their transfer without prejudice to applicable provisions concerning data retention periods.

8. In order to take account of current inflation rates, relevant developments in the field of relocation and other factors which might optimise the use of the financial incentive brought by the amounts referred to in paragraphs 1 to 5 of this Article, the Commission is empowered to adopt delegated acts in accordance with Article 37 to adjust those amounts, where that adjustment is deemed appropriate and within the limits of available resources.

(2) In Chapter II, Section 4, Article 31 is amended as follows:

In paragraph 1, point (ba) is added:

(ba) an event of a situation of crisis within the meaning of Article 1a (1) of Regulation (EU) XXX/XXX [Crisis Regulation].

Amendment 127
Proposal for a regulation
Article 11

Text proposed by the Commission

Amendment

Article 11

deleted

Adoption of implementing acts

1. The Commission shall adopt implementing acts in respect of authorising the application of the derogatory procedural rules referred to in Articles 4, 5 and 6, and triggering the granting of immediate protection status in accordance with Article 10. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12(2).

2. On duly justified imperative grounds of urgency, due to the situation of crisis as defined in Article 1(2) in a Member State, the Commission shall adopt immediately applicable implementing acts in respect of authorising the application of the derogatory procedural rules referred to in Articles 4, 5 and 6, and triggering the granting of immediate protection status in accordance with Article 10. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 12(3).

3. The implementing acts shall remain in force for a period not exceeding one year.

Amendment 128
Proposal for a regulation

Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12a

Exercise of delegation

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.**
- 2. The power to adopt delegated acts referred to in Article 1c shall be conferred on the Commission for a period of five years from [date of entry into force of the Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.**
- 3. The delegation of power referred to in Article 1c may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.**
- 4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.**
- 5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.**

6. A delegated act adopted pursuant to Article 1c shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of [two weeks] of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object.

Amendment 129
Proposal for a regulation
Article 12 b (new)

Text proposed by the Commission

Amendment

Article 12b

Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 12a (6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

Amendment 130
Proposal for a regulation
Article 14

Text proposed by the Commission

Amendment

Article 14

deleted

Repeal

*Council Directive 2001/55/EC is repealed
with effect from xxx (date).*

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Addressing situations of crisis and force majeure in the field of migration and asylum	
References	COM(2020)0613 – C9-0308/2020 – 2020/0277(COD)	
Date submitted to Parliament	25.9.2020	
Committee responsible Date announced in plenary	LIBE 11.11.2020	
Committees asked for opinions Date announced in plenary	AFET 11.11.2020	BUDG 11.11.2020
Not delivering opinions Date of decision	AFET 26.10.2020	BUDG 10.11.2020
Rapporteurs Date appointed	Juan Fernando López Aguilar 9.11.2020	
Discussed in committee	30.11.2021	
Date adopted	28.3.2023	
Result of final vote	+	46
	-	12
	0	7
Members present for the final vote	Abir Al-Sahlani, Konstantinos Arvanitis, Malik Azmani, Pietro Bartolo, Vladimír Bilčík, Malin Björk, Vasile Blaga, Ioan-Rareș Bogdan, Karolin Braunsberger-Reinhold, Saskia Bricmont, Annika Bruna, Jorge Buxadé Villalba, Damien Carême, Patricia Chagnon, Lena Düpont, Cornelia Ernst, Laura Ferrara, Jean-Paul Garraud, Maria Grapini, Sylvie Guillaume, Sophia in 't Veld, Patryk Jaki, Marina Kaljurand, Assita Kanko, Fabienne Keller, Łukasz Kohut, Moritz Körner, Alice Kuhnke, Jeroen Lenaers, Juan Fernando López Aguilar, Lukas Mandl, Erik Marquardt, Nuno Melo, Nadine Morano, Javier Moreno Sánchez, Maite Pagazaurtundúa, Emil Radev, Karlo Ressler, Diana Riba i Giner, Birgit Sippel, Vincenzo Sofo, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Tomas Tobé, Yana Toom, Tom Vandendriessche, Elissavet Vozemberg-Vrionidi, Jadwiga Wiśniewska, Elena Yoncheva	
Substitutes present for the final vote	Damian Boeselager, Beata Kempa, Leopoldo López Gil, Jan-Christoph Oetjen, Carina Ohlsson, Sira Rego, Thijs Reuten, Tomáš Zdechovský	
Substitutes under Rule 209(7) present for the final vote	Isabel Benjumea Benjumea, Othmar Karas, Joachim Kuhs, Aušra Maldeikienė, Daniela Rondinelli, Günther Sidl, Susana Solís Pérez	
Date tabled	5.4.2023	

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

46	+
PPE	Isabel Benjumea Benjumea, Vladimír Bilčík, Vasile Blaga, Ioan-Rareş Bogdan, Karolin Braunsberger-Reinhold, Lena Düpont, Othmar Karas, Jeroen Lenaers, Aušra Maldeikienė, Lukas Mandl, Nuno Melo, Nadine Morano, Alessandra Mussolini, Emil Radev, Karlo Ressler, Tomas Tobé, Elissavet Vozemberg-Vrionidi, Tomáš Zdechovský
S&D	Pietro Bartolo, Maria Grapini, Sylvie Guillaume, Marina Kaljurand, Lukasz Kohut, Juan Fernando López Aguilar, Javier Moreno Sánchez, Carina Ohlsson, Thijs Reuten, Daniela Rondinelli, Günther Sidl, Birgit Sippel, Elena Yoncheva
Renew	Abir Al-Sahlani, Malik Azmani, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Jan-Christoph Oetjen, Maite Pagazaurtundúa, Susana Solís Pérez, Ramona Strugariu, Yana Toom
The Left	Konstantinos Arvanitis, Malin Björk, Cornelia Ernst, Sira Rego
NI	Laura Ferrara

12	-
ID	Annika Bruna, Patricia Chagnon, Jean-Paul Garraud, Joachim Kuhs, Annalisa Tardino, Tom Vandendriessche
ECR	Jorge Buxadé Villalba, Patryk Jaki, Assita Kanko, Beata Kempa, Vincenzo Sofo, Jadwiga Wiśniewska

7	0
Verts/ALE	Damian Boeselager, Saskia Bricmont, Damien Carême, Alice Kuhnke, Erik Marquardt, Diana Riba i Giner, Tineke Strik

Key to symbols:

+ : in favour

- : against

0 : abstention