



EUROPEAN COMMISSION
DIRECTORATE-GENERAL MIGRATION AND HOME AFFAIRS

Directorate E – Migration and Security Funds

Unit E.1: Union Actions
Unit E.2: National programmes for South and East Europe, evaluation, AMIF/ISF Committee
Unit E.3: National programmes for North and West Europe, budget, MFF, agencies

AMIF-ISF/2017/06

'Asylum, Migration and Integration and Internal Security Funds Committee'

Subject: Implementation of relocation and legal admission following the adoption of Council Decision (EU) 2016/1754

1. Introduction

The purpose of this document is to provide further guidance with regard to the implementation of relocation and legal admission following the adoption on 29 September 2016 of Council Decision (EU) 2016/1754¹ amending Council Decision (EU) 2015/1601, establishing provisional measures in the area of international protection for the benefit of Italy and Greece.

2. Context

Council Decision (EU) 2016/1754 provides that for the 54,000 applicants for international protection referred to in Article 4(1)(c) of Council Decision (EU) 2015/1601², Member States may choose to meet their relocation obligations by admitting to their territory, under national or multilateral legal admission schemes (other than the resettlement scheme which was the subject of the Conclusions of the Representatives of the Governments of the Member States meeting within the Council of 20 July 2015), Syrian nationals present in Turkey who are in clear need of international protection.

Mechanisms for legal admission of Syrian nationals present in Turkey who are in clear need of international protection may include resettlement, humanitarian admission or other legal pathways for admission, such as humanitarian visa programmes, humanitarian transfers,

¹ OJ L 268, 1.10.2016, p. 82.

² OJ L 248, 24.9.2015, p. 80.

family reunification programmes, private sponsorship projects, scholarship programmes, labour mobility schemes, and others.

On 20 October 2016, Member States were invited to pledge by 7 November 2016 the number of places available for legal admission, under national or multilateral legal admission schemes, of Syrian nationals present in Turkey who are in clear need of international protection.

A second pledging exercise is envisaged in the 1st quarter of 2017.

3. Financial aspects

Financial support for the relocation of 54,000 applicants for international protection under Council Decision (EU) 2015/1601 is provided to Member States through their national programme under the Asylum, Migration and Integration Fund (AMIF) in the form of lump sums. To add to the national programme the corresponding lump sums, a revision is needed.

Under Council Decision (EU) 2015/1601, Member States are entitled to receive (lump sum) amounts from AMIF as follows:

- EUR 6,000 per effectively relocated person from Italy or Greece (Article 10(1)(a) of Council Decision (EU) 2015/1601);
- EUR 500 for Italy and Greece as a contribution to the transfer costs per relocated person (Article 10 (1)(b) of Council Decision (EU) 2015/1601).

Under Council Decision (EU) 2016/1754, receiving Member States are entitled to receive an amount (lump sum) of EUR 6,500 per effectively legally admitted Syrian national in clear need of international protection present in Turkey.

Following the revision of the AMIF national programmes a 50% pre-financing payment is made to the Member States in accordance with the amount resulting from their pledges.

4. Operational aspects

4.1 Eligibility period

For *relocation*, the eligibility periods are outlined in the respective Council Decisions:

- For Council Decision (EU) 2015/1523³: "It shall apply to persons arriving on the territory of Italy or Greece as from 16 September 2015 until 17 September 2017, as well as to applicants having arrived on the territory of those Member States from 15 August 2015 onwards";
- For Council Decision (EU) 2015/1601: "It shall apply to persons arriving on the territory of Italy and Greece from 25 September 2015 until 26 September 2017, as well as to applicants having arrived on the territory of those Member States from 24 March 2015 onwards".

³ OJ L 239, 15.9.2015, p. 146.

Please note that the effective physical transfer of the persons should in principle take place up to three and a half months following the end of the period covered by the Council Decisions. This timeframe is calculated in accordance with the relocation procedure described in Article 5(10) of both Council Decisions. What triggers the 3.5-month period is the date of the actual pledge made by the Member State of relocation to Italy or Greece ('pledge') as per Article 5(2) of both Council Decisions. As a consequence, in principle, for Decision (EU) 2015/1523, 31 December 2017 is the last day to implement the relocation transfer for a pledge made to Italy or Greece on 17 September 2017. For Decision (EU) 2015/1601, 9 January 2018 is the last day to implement the relocation transfer for a pledge made to Italy or Greece on 26 September 2017.

For *legal admission*, Council Decision (EU) 2016/1754 states that it "shall apply to all the persons who [...] have been admitted from the territory of Turkey by the Member States as from 1 May 2016". The decision to grant legal admission to Syrian nationals present in Turkey, under national or multilateral legal admission schemes for persons in clear need of international protection needs to be completed by 26 September 2017:

- For types of legal admission that require both a decision and a physical transfer to take place (e.g. resettlement and humanitarian admission) both must take place by 26 September 2017;
- For types of legal admission that imply a decision to enter, but not necessarily the actual entry (e.g. family reunification, scholarship schemes, labour mobility schemes), this decision needs to be delivered by 26 September 2017, whereas the entry can take place at a later time (within a reasonable timeframe).

For resettlement, the 'decision' refers to the relevant decision taken at national level to resettle the person(s) in question (i.e. it does not necessarily refer to the granting of the legal status to the resettled person).

4.2 What is needed to be eligible for funding under the AMIF national programmes?

The number of persons that are relocated or granted legal admission under the Council Decisions listed above need to be reported to the Commission in the framework of the request for payment of the annual balance (as per Article 44 of Regulation (EU) No 514/2014⁴).

In order for the Responsible Authority to determine whether the persons fall within the scope of the Council Decisions and were relocated or granted legal admission within the respective eligibility periods, the following information is needed.

- For *relocation*, this requires the relocation procedure outlined in Article 5 of the Council Decisions to be completed. For this, a proof of the physical transfer of the person is needed, but no particular format is required.

Italy and Greece need to keep the necessary documents to allow proper identification of the relocated persons, to prove the date they left the country and to demonstrate that

⁴ OJ L 150, 20.5.2014, p. 112.

they fall within the scope of Article 3(2) of Council Decision (EU) 2015/1523 and Council Decision (EU) 2015/1601.

- For *legal admission*, it is needed that the Member State is able to demonstrate the date of the decision to grant legal admission and the date of the actual physical transfer / entry. Both decision and physical transfer / entry need to be completed before the Member State can report such a person in its request for payment of the annual balance.

For all types of legal admission a dated proof of the decision as well as a dated proof of transfer / entry to the territory of the Member State has to be provided.

Please note that Council Decision (EU) 2016/1754 does not provide an exhaustive list of the types of national or multilateral legal admission schemes for persons in clear need of international protection that may be used.

4.3 Controls

The guidance provided in the interpretation note by the Commission on controls to be carried out by the Responsible Authority⁵ applies to relocation or legal admission implemented in accordance with Council Decision (EU) 2016/1754; requirements on controls apply to all types of expenditure, including expenditure on legal admission and relocation. In that regard, the Responsible Authority (RA) should describe how it treats those specific types of expenditure in the control strategies (administrative and on-the-spot) based on the risk assessment carried out.

For example, the RA should describe the checks it carries out to ensure that the number of persons effectively granted legal admission is accurate and the procedure and their status meet the applicable legal requirements.

Examples:

- If the RA carries out 'robust' administrative controls on relocation / legal admission which include checks on copies of documents that prove that all requirements are met, the RA may limit itself to carrying out administrative controls as it would consider that these expenditures are not at risk;
- If the RA carries out 'light' administrative controls and requests to the Commission the payment of the lump sums only based on a declaration of the national body in charge of relocation / legal admission, on-the-spot controls might be advisable as these expenditures may be at risk.

⁵ AMIF-ISF/2016/2 (Ares(2016)1406772), also provided through the Frequently Asked Questions.

4.4 Complementarity with other schemes

Union Resettlement Programme

The existing Union Resettlement Programme for which Member States have already placed their pledges in the AMIF national programmes, including the pledges made by the Member States in the framework of the Conclusions of 20 July 2015, will remain in place.

The pledge for legal admission does not affect the resettlement scheme which was subject of the Conclusions of the Representatives of the Governments of the Member States meeting within the Council of 20 July 2015.

Relocation under Council Decisions (EU) 2015/1523 and 2015/1601

The implementation of the Member States' existing obligations regarding relocation as per Council Decisions (EU) 2015/1523 and 2015/1601 should proceed without any changes.

The 54,000 applicants referred to in Article 4(1)(c) of Council Decision 2015/1601 will be allocated to each Member State of relocation. To this effect, the Commission services will propose an amendment to the Annexes to Council Decision 2015/1601 as soon as possible.