

# DECISIONS

## COUNCIL DECISION (EU) 2016/946

of 9 June 2016

**establishing provisional measures in the area of international protection for the benefit of Sweden in accordance with Article 9 of Decision (EU) 2015/1523 and Article 9 of Decision (EU) 2015/1601 establishing provisional measures in the area of international protection for the benefit of Italy and Greece**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(3) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament <sup>(1)</sup>,

Whereas:

- (1) According to Article 78(3) of the Treaty on the Functioning of the European Union (TFEU), in the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission and after consulting the European Parliament, may adopt provisional measures for the benefit of the Member State(s) concerned.
- (2) According to Article 80 TFEU, the policies of the Union in the area of border checks, asylum and immigration and their implementation are to be governed by the principle of solidarity and fair sharing of responsibility between the Member States, and Union acts adopted in this area are to contain appropriate measures to give effect to this principle.
- (3) On the basis of Article 78(3) TFEU, the Council adopted two Decisions establishing provisional measures in the area of international protection for the benefit of Italy and Greece. Under Council Decision (EU) 2015/1523 <sup>(2)</sup>, 40 000 applicants for international protection are to be relocated from Italy and from Greece to the other Member States. Under Council Decision (EU) 2015/1601 <sup>(3)</sup>, 120 000 applicants for international protection are to be relocated from Italy and from Greece to the other Member States.
- (4) Article 9 of Decision (EU) 2015/1523 and Article 9 of Decision (EU) 2015/1601 provide that, in the event of an emergency situation characterised by a sudden inflow of nationals of third countries into a Member State, the Council, on a proposal from the Commission and after consulting the European Parliament, may adopt provisional measures for the benefit of the Member State concerned, pursuant to Article 78(3) TFEU. Such measures may include, where appropriate, a suspension of the participation of that Member State in the relocation as provided for in those Decisions, as well as possible compensatory measures for Italy and for Greece.
- (5) Sweden faces an emergency situation characterised by a sudden inflow of nationals of third countries into its territory because of a sharp shift in migratory flows. On 8 December 2015, Sweden formally requested the suspension of its obligations under Decisions (EU) 2015/1523 and (EU) 2015/1601.

<sup>(1)</sup> Opinion of 26 May 2016 (not yet published in the Official Journal).

<sup>(2)</sup> Council Decision (EU) 2015/1523 of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece (OJ L 239, 15.9.2015, p. 146).

<sup>(3)</sup> Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece (OJ L 248, 24.9.2015, p. 80).

- (6) The considerable increase in irregular border-crossing into the Union and in secondary movements across the Union has led to a sharp rise in Sweden in the number of applications for international protection, mainly from individuals who entered the Union via Italy and Greece.
- (7) Eurostat figures confirm a sharp increase in Sweden in the number of applicants for international protection. The number of applicants for international protection increased by more than 60 % from 68 245 applicants for the period from 1 January to 31 October 2014 to 112 040 applicants for the period from 1 January to 31 October 2015.
- (8) The monthly number of applicants for international protection has recently reached an even higher level: it doubled between August (11 735) and September (24 261), and reached 39 055 in October 2015 (an increase of 61 % from September).
- (9) Sweden had by far the highest number of applicants for international protection per capita in the Union in 2015, with 11 503 applicants per million inhabitants.
- (10) Sweden is also facing a difficult situation because of the recent significant increase in the number of unaccompanied minors, with one out of four applicants claiming to be an unaccompanied minor.
- (11) The current situation has put a very significant strain on the Swedish asylum and migration system, with serious practical consequences on the ground as regards reception conditions and the ability of the asylum and migration system to deal with applications. In order to help alleviate the significant pressure with which Sweden is confronted, the obligations of Sweden as a Member State of relocation under Decisions (EU) 2015/1523 and (EU) 2015/1601 should be suspended for 1 year.
- (12) The suspension of Sweden's obligations should be complemented, where appropriate, by operational support measures coordinated by the European Asylum Support Office (EASO) and by other relevant Agencies.
- (13) Sweden should present to the Council and to the Commission a roadmap setting out the measures that it will take in order to ensure the effectiveness of its asylum and migration system and to resume its obligations under Decisions (EU) 2015/1523 and (EU) 2015/1601 once the suspension of its obligations ceases to have effect.
- (14) Since the objectives of this Decision 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 (TEU). In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve those objectives.
- (15) This Decision respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union.
- (16) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Decision and are not bound by it or subject to its application.
- (17) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (18) In view of the urgency of the situation, this Decision should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS DECISION:

*Article 1*

**Subject matter**

This Decision establishes provisional measures in the area of international protection for the benefit of Sweden, in order to support it in better coping with an emergency situation characterised by a sudden inflow of nationals of third countries.

*Article 2*

**Suspension of obligations under Decisions (EU) 2015/1523 and (EU) 2015/1601**

The obligations of Sweden as a Member State of relocation under Decisions (EU) 2015/1523 and (EU) 2015/1601 shall be suspended until 16 June 2017.

*Article 3*

**Operational support to Sweden**

In order to enable Sweden to better cope with the exceptional pressure on its asylum and migration system, operational support shall be provided to Sweden, where appropriate, through relevant activities coordinated by EASO and by other relevant Agencies.

*Article 4*

**Complementary measures to be taken by Sweden**

By 16 July 2016, Sweden shall present to the Council and to the Commission a roadmap setting out the measures that it will take in order to ensure the effectiveness of its asylum and migration system and to resume its obligations under Decisions (EU) 2015/1523 and (EU) 2015/1601 once the suspension referred to in Article 2 ceases to have effect.

*Article 5*

**Entry into force**

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Done at Luxembourg, 9 June 2016.

*For the Council*  
*The President*  
G.A. VAN DER STEUR

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