REGULATION (EU) 2018/2000 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 12 December 2018

amending Regulation (EU) No 516/2014 of the European Parliament and of the Council, as regards the recommitment of the remaining amounts committed to support the implementation of Council Decisions (EU) 2015/1523 and (EU) 2015/1601 or the allocation of those amounts to other actions under the national programmes

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(2) and Article 79(2) and (4) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure ([1]),

Whereas:

(1) The purpose of this Regulation is to enable the recommitment of the remaining amounts committed to support the implementation of Council Decisions (EU) 2015/1523 ([2]) and (EU) 2015/1601 ([3]) provided for under Regulation (EU) No 516/2014 of the European Parliament and the Council ([4]) or the allocation of those amounts to other actions under the national programmes in line with Union priorities and Member States' needs in specific areas of asylum and migration. It is also to ensure that such recommitment or allocation occurs in a transparent manner.

(2) The Commission committed funding to Member States' national programmes under the Asylum, Migration and Integration Fund to support the implementation of Decisions (EU) 2015/1523 and (EU) 2015/1601. Decision (EU) 2015/1601 was amended by Council Decision (EU) 2016/1754 ([5]). Those Decisions have now ceased to apply.

(3) Part of the funding allocated under Decisions (EU) 2015/1523 and (EU) 2015/1601 in 2016 and in some cases 2017 remains available in the Member States' national programmes.

(4) It should be possible for Member States to use the remaining amounts to continue to implement relocation by recommitting them to the same action under the national programmes. Member States should recommit or transfer at least 20 % of those amounts to actions in national programmes, for the transfer of applicants for international protection or of beneficiaries of international protection, for resettlement or other ad hoc humanitarian admissions, as well as for preparatory measures for the transfer of applicants for international protection following their arrival in the Union, including by sea, or for the transfer of beneficiaries of international protection. Such measures should comprise only those measures referred to in points (a), (b), (e) and (f) of the second subparagraph of Article 5(1) of Regulation (EU) No 516/2014.

(5) Where duly justified in the revision of Member States' national programmes, it should be possible for Member States to use up to 80 % of those amounts to address other challenges in the areas of asylum and migration, in line with Regulation (EU) No 516/2014. Member States' needs in those areas remain significant. Recommitments of the remaining amounts to the same action, or their transfer to other actions under the national programme should be possible only once and with the approval of the Commission. Member States should ensure that the

([1]) Position of the European Parliament of 11 December 2018 (not yet published in the Official Journal) and decision of the Council of 11 December 2018.

([2]) 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).

([3]) 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).

([4]) Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC (OJ L 150, 20.5.2014, p. 168).

([5]) Council Decision (EU) 2016/1754 of 29 September 2016 amending Decision (EU) 2015/1601 establishing provisional measures in the area of international protection for the benefit of Italy and Greece (OJ L 268, 1.10.2016, p. 82).

allocation of funds takes place in a manner that fully respects the principles set out in Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council [1], in particular the principles of efficiency and transparency.

(6) The target group eligible for transfer, as well as the number of Member States from which transfers take place, should be expanded to give more flexibility to Member States in carrying out transfers, taking into account the specific needs of unaccompanied minors, or other vulnerable applicants, and the specific situation of family members of beneficiaries of international protection. The specific provisions concerning lump sums for resettlement and transfer of beneficiaries of international protection from one Member State to another should reflect that expansion.

(7) Member States and the Commission should have sufficient time to revise the national programmes to accommodate the relevant changes provided for by this Regulation. Therefore, a derogation from Article 50(1) of Regulation (EU) No 514/2014 of the European Parliament and of the Council [2] should be applied to the remaining amounts committed to support the implementation of Decisions (EU) 2015/1523 and (EU) 2015/1601, extending the deadline for decommitment by six months with a view to completing the procedure for the revision of the national programmes, as referred to in Article 14 of Regulation (EU) No 514/2014.

(8) Member States should also have sufficient time to use the amounts recommitted to the same action or transferred to other actions prior to the decommitment of those amounts. Therefore, when such recommitments or transfers of amounts under the national programme are approved by the Commission, the amounts concerned should be considered to have been committed in the year of the revision of the national programme that approves the recommitment or the transfer concerned.

(9) The Commission should report annually to the European Parliament and to the Council as regards the implementation of resources for the transfer of applicants for international protection and of beneficiaries of international protection, in particular as regards transfers of amounts to other actions under the national programme as provided for in this Regulation.

(10) This Regulation does not affect the funding available under Article 17 of Regulation (EU) No 516/2014.

(11) The objectives of this Regulation are pursued without prejudice to the ongoing negotiations on the reform of Regulation (EU) No 604/2013 of the European Parliament and of the Council [3].

(12) In accordance with Articles 1 and 2 and Article 4a(1) 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 Treaty on European Union (TEU) and to the Treaty on the Functioning of the European Union (TFEU), and without prejudice to Article 4 of that Protocol, the United Kingdom is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

(13) In accordance with Article 3 and Article 4a(1) 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, Ireland has notified, by letter of 7 December 2018, its wish to take part in the adoption and application of this Regulation.

(14) 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 Regulation and is not bound by it or subject to its application.

(15) In view of the need to avoid decommitment of the remaining amounts committed to support the implementation of Decisions (EU) 2015/1523 and (EU) 2015/1601, this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*.

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[1] Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

[2] Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (OJ L 150, 20.5.2014, p. 112).

[3] Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ L 180, 29.6.2013, p. 31).

(16) If Regulation (EU) No 516/2014 is not amended before the end of 2018, the relevant funding will no longer be available for Member States' use under the national programmes supported by the Asylum, Migration and Integration Fund. In view of the urgency of amending Regulation (EU) No 516/2014, it was considered to be appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the TEU, to the TFEU and to the Treaty establishing the European Atomic Energy Community.

(17) Regulation (EU) No 516/2014 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 516/2014 is amended as follows:

(1) Article 18 is amended as follows:

(a) the heading is replaced by the following:

'***Resources for the transfer of applicants for international protection or of beneficiaries of international protection***';

(b) in paragraph 1, the words 'beneficiary of international protection' are replaced by the words 'applicant for international protection or beneficiary of international protection';

(c) paragraph 3 is replaced by the following:

'3. The additional amounts referred to in paragraph 1 of this Article shall be allocated to the Member States for the first time in the individual financing decisions approving their national programme in accordance with the procedure laid down in Article 14 of Regulation (EU) No 514/2014 and later in a financing decision to be annexed to the decision approving their national programme. Recommitments of those amounts to the same action under the national programme or transfers of those amounts to other actions under the national programme shall be possible where duly justified in the revision of the relevant national programme. An amount may only be recommitted or transferred once. The Commission shall approve the recommitment or transfer through the revision of the national programme.

In respect of amounts stemming from the provisional measures established by Council Decisions (EU) 2015/1523 (*) and (EU) 2015/1601 (**), with a view to enhancing solidarity and in accordance with Article 80 TFEU, Member States shall allocate at least 20 % of those amounts to actions under the national programmes for the transfer of applicants for international protection or of beneficiaries of international protection, for resettlement or other ad hoc humanitarian admissions, as well as for preparatory measures for the transfer of applicants for international protection following their arrival in the Union, including arrival by sea, or for the transfer of beneficiaries of international protection. Such measures shall not include any measures related to detention. Where a Member State recommits or transfers resources below that minimum percentage, it shall not be possible to transfer the difference between the recommitted or transferred amount and the minimum percentage to other actions under the national programme.

(*) 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).

(**) 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).';

(d) the following paragraphs are inserted:

'3a. For the purpose of Article 50(1) of Regulation (EU) No 514/2014, where amounts stemming from the provisional measures established by Decisions (EU) 2015/1523 and (EU) 2015/1601 are recommitted to the same action under the national programme or transferred to other actions under the national programme in accordance with paragraph 3 of this Article, the amounts concerned shall be considered to have been committed in the year of the revision of the national programme that approves the recommitment or transfer in question.

3b. By way of derogation from Article 50(1) of Regulation (EU) No 514/2014, the deadline for the decommitment of the amounts referred to in paragraph 3a of this Article shall be extended by a period of six months.

3c. The Commission shall report annually to the European Parliament and to the Council on the application of this Article.';

(e) paragraph 4 is replaced by the following:

'4. To effectively pursue the objectives of solidarity and fair sharing of responsibility between the Member States referred to in Article 80 TFEU, and within the limits of available resources, the Commission shall be empowered to adopt delegated acts in accordance with Article 26 of this Regulation to adjust the lump sum referred to in paragraph 1 of this Article, taking into account in particular the current rates of inflation, relevant developments in the field of transfer of applicants for international protection and of beneficiaries of international protection from one Member State to another and in the field of resettlement and other ad hoc humanitarian admission, as well as factors which can optimise the use of the financial incentive brought by the lump sums.';

(2) in the heading and the introductory wording of Article 25, the words 'beneficiaries of international protection' are replaced by the words 'applicants for international protection or of beneficiaries of international protection'.

Article 2

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

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Strasbourg, 12 December 2018.

For the European Parliament	*For the Council*
The President	*The President*
A. TAJANI	J. BOGNER-STRAUSS