

HUMCORE

Humanitarian Corridors Integration pathways: fostering better integration opportunities for people in need of protection through strengthened private sponsorship schemes

Project n. 101038285

DELIVERABLE 5.7

Proposals concerning the EU legislation

WP 5 OUTREACH AND ADVOCACY

Act. 5.5

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Project Document Information	
Project acronym	HUMCORE
Project full title	HC Integration pathways: fostering better integration opportunities for people in need of protection through strengthened private sponsorship schemes
Project Code	101038285
Specific Objective	4
Authors	Sant'Egidio ACAP
Editors	
Work Package no. & title	WP 5 OUTREACH AND ADVOCACY
Activity no. & Title	Act. 5.5 Proposals to amend the EU legislation
Deliverable no. & Title	Del. 5.7 Proposals concerning the EU legislation
Deliverable Partner responsible	Sant'Egidio ACAP
Date of Deliverable submission	May 2024
Level of publicity	Public
Version	Final
Keywords	Amendment, Regulation, AMIF, Proposal



Abstract

The present "Proposals Regarding European Legislation" have been developed with the aim to provide some insights into the possible evolutions of the framework within which Humanitarian Corridors operate. Starting from the peculiar characteristics of the Humanitarian Corridors scheme within the "Protected Entry Procedures (PEPs)" and the regulatory and operational context within which the support provided by the European Union to "Private Sponsorship" schemes is realized, the document examines the possible / desirable actions that could be undertaken at the European Union level to improve or specify the regulatory and legislative context for the implementation of Humanitarian Corridors.

Introduction

This is the Final Report for the Activity 5.5 “Proposals to amend the EU legislation”.

This report is structured around three main Parts:

- **Part I** details some peculiar aspects of the Humanitarian Corridors within the "Protected Entry Procedures (PEPs)" and the regulatory and operational components that allow their alignment with the so-called "Private Sponsorships."
- **Part II** is dedicated to outlining some options for potential European Union actions that could favor the implementation and scalability of the Humanitarian Corridors model from the perspective of their operability within the framework of entry procedures and/or private sponsorship programs.
- **Part III**, based on an overall evaluation of the outlined options, some intervention proposals, whether legislative or non-legislative, are presented, being considered those deemed feasible and immediately applicable in light of the relevant context.

This report has been also built thanks to the contribution and feedback received by the Project activities (focus groups, peer learning sessions, desk research), as well as by informal meetings and sessions with senior operators and responsible of Humanitarian Corridors in experienced countries. The consortium discussed about these contributions, and some lines emerged about possible EU efforts to reinforce HCs and extend their applicability. These feedback and contributions have been taken into account in the finalization of this report.

Acronyms and Abbreviations

AMIF

Asylum, Migration and Integration Fund

CSOs

Civil Society Organizations

EU

European Union

HC

Humanitarian Corridors

IO

International Organisations

IOM

International Organisation for Migration

MoU

Memorandum of Understanding

MS

Member States

NGOs

Non-governmental organisations

PEP

Protected Entry Procedures

PSS

Private Sponsorship Scheme

UNHCR

United Nations High Commissioner for Refugees

Part I Rationale and Background

Humanitarian Corridors in the frame of the Protected Entry Procedures (PEPs) and Sponsorships

Protected Entry Procedures (PEPs) are those that allow individuals in need of protection to reach their destination country under conditions of full legality and safety. These procedures can specifically involve the examination of an international protection request at the Consulate of the destination country in a third country (either the country of origin or the country of temporary presence of the applicant), followed, in case of a positive outcome, by the issuance of a visa, or directly the issuance of a visa based on humanitarian needs, which will then be definitively examined in the destination country.

The Memoranda of Understanding (or Protocols) signed by the Promoters of the Humanitarian Corridors with the relevant Authorities in the EU Countries where the program is under implementation fall under this second mode of action.

The Protocols in force provide for the protected entry (into the countries concerned) of a certain number of refugees coming from different geographical areas / third countries. The admission to the project is managed locally by the sponsoring entities, who take care of their transfer to the country concerned (e.g., Italy, Belgium, France) and the subsequent reception, which is widely spread across the contexts of their local solidarity networks. The project is self-financed by the sponsoring entities for all its phases, regardless of the duration of the reception, which the sponsors expect to be at least one year, focusing on accompaniment to social inclusion and integration of the beneficiaries.

As first approximation, the “Humanitarian Corridors” constitute a model of “*sponsorship*” aimed at the resettlement of potential holders of international protection. And it is precisely this emphasis on “potentiality”, rather than the actual or at least *prima facie* recognition of the right to international protection, that constitutes one of the particularities of the project.

The common legal basis of the Protocols has been identified – regarding the legal segment related to border crossing – in Article 25 of Regulation (EC) No 810/2009, where it affirms the possibility of issuing visas with limited territorial validity "for humanitarian reasons, for reasons of national interest or because of international obligations" in derogation from the principle of fulfilling the entry conditions set out in Article 5, paragraph 1, letters a), c), d), and e) of the Schengen Borders Code.

Regarding the objective of resettlement through the solidarity-driven initiative of private entities (*sponsorship*), the European Agenda on Migration has been referenced from the time when the first two Memoranda of Understanding for the “opening of Humanitarian Corridors” were signed by the Promoters with the Italian Ministry of Internal Affairs and the Ministry of Foreign Affairs¹. Among the immediate actions requested (part II), within the framework of initiatives for displaced persons in need of protection, it is hoped that Member States will activate "all other legal avenues available to persons in need of protection, including sponsorship by private or non-governmental entities, humanitarian permits, and family reunification clauses".

The “Humanitarian Corridors” represent, thus, a model of cooperation between the States and the civil society, characterized by the latter bearing the operational responsibility and the direct costs of resettlement. This makes the Humanitarian Corridors a more easily acceptable model for Governments: it can be replicated whenever civil society is willing to implement it, without significant costs for public administrations, since the responsibility for entry and reception, at least for the first year, is fully assumed by the sponsoring associations.

Nowadays, Humanitarian corridors can be considered a good practice that has allowed the arrival of **over 7,000 refugees since 2016**.²

¹ The first Protocol was signed on December 15, 2015, with the Community of Sant'Egidio, the Federation of Evangelical Churches, and the Waldensian Table. The second Protocol was signed on January 12, 2017, with the Italian Episcopal Conference (which acted through Caritas Italiana and the Migrants Foundation) and the Community of Sant'Egidio.

² See <https://www.santegidio.org/pageID/30112/langID/it/CORRIDOI-UMANITARI.html>.

Born from a freedom of solidary action "graciously" granted and limited by Governments, the "humanitarian corridors" nonetheless embody some ambitious lines of reform. These pertain both to public policies on asylum and immigration and to the strengthened role that should be recognized for civil society, such as by reintroducing the institution of "sponsorship", albeit on new bases compared to the experiences made in the past (e.g., in Italy).

The reintroduction of sponsorship could now fulfil a dual function with an appropriate regulatory restyling compared to previously tested forms. Firstly, it would retain its valuable role as a regulating valve for migration flows through family and friend networks, typical of immigrant countries where communities have not yet completely severed ties with their country of origin (a channel of regular immigration, which would thus take clients away from illegal migrant trafficking). At the same time, however, sponsorship could become a second regular channel for the protected entry of refugees coming from crisis areas or neighbouring first asylum countries, following the example (and numbers) of the Canadian programs for sponsoring Syrian refugees.

A new strategy for reception with a continental scope is thus emerging, both realistic and ambitious. It acknowledges the difficulties of the Member States and the European Union in implementing bolder humanitarian policies and interventions. At the same time, it identifies a space for civil society – starting with the initiative of humanitarian corridors – which, in turn, requests a limited participatory solidarity from Governments. This aims to create the foundations for active consensus towards future public policies.

In this way, many more human lives could be protected and guided through virtuous paths of social inclusion, significantly altering the overall numbers of European Protected Entry Procedures policies, which are currently primarily constituted by resettlement actions required by the European Union from Member States.

There is a general consensus toward the need to introduce some adjustments to the regulatory framework of the European Union concerning the admission of persons coming from third countries, mainly intended to countering illegal human trafficking and saving lives.

UNHCR has asked European States to urgently take steps to promote Access to Safe and Legal Pathways to Europe also by introducing “additional complementary pathways including community sponsorship programmes based on similar initiatives in the region” (see Report 2019 “Desperate Journeys”, UNHCR).

The European Union itself is aware of the limits of its legal instruments when underlines the necessity to “facilitating orderly safe, regular and responsible migration and mobility of people” (European Agenda on Migration of 2015 SDG 10.7) through integrated actions. Concerning refugees, it set the aim “to facilitate access to international protection to the persons in need through EU resettlement schemes”.

To move from ad hoc resettlement schemes to schemes that operate on the basis of a stable framework, the Commission proposed a regulation in 2016 establishing a “Union Resettlement Framework” to provide safe and legal pathways to international protection as part of the revision of the EU asylum system. The adoption of the regulation is pending.

The need to provide increased and complementary pathways for refugee admission is reflected in the New York Declaration for Refugees and Migrants, which was adopted by the United Nations General Assembly in September 2016 (United Nations New York Declaration for Refugees and Migrants, para 77).

It is also widely recognized that the current refugee situation requires a varied ‘toolbox’ of instruments³. UNHCR has called for such a ‘toolbox’ approach since 2014, asking the States to pledge half of protection places to be UNHCR-referred, in line with resettlement submission categories, and half to be offered through alternative legal admission pathways. Nowadays, admission programmes encompass the humanitarian and student visas, family reunification programmes and community-based sponsorships. In addition to resettlement and humanitarian admission schemes, the EU promotes other complementary pathways to protection linked to education and work. Moreover, the EU promotes “community sponsorship” schemes to give civil society organisations, communities and groups of individuals a stronger, more structured role in the reception and integration of refugees arriving through the above-mentioned legal pathways.

³ The Fundamental Rights Agency (FRA) and NGOS also call for a toolbox approach <http://fra.europa.eu/en/publication/2015/legalentry-channels-eu-persons-need-international-protection-toolbox>

Humanitarian Corridors in the frame of the “Sponsorship Schemes”

Efforts to promote resettlement in Europe date back one decade at least. The Joint EU Resettlement Programme was adopted in 2012, that consisted of financial incentives for Member States’ resettlement activities under the European Refugee Fund. The Asylum, Migration and Integration Fund, adopted in 2014, continued to provide incentives to resettlement programmes implemented by Member States.

Since 2013, in concomitance with the worsening situation across the EU and in the Middle East, policy responses at EU level increasingly focused on additional legal entry channels to the EU for people needing international protection. Resettlement and (other) legal pathways have become a major policy priority as EU institutions and Member States seek ways to ensure that migration to their territories occurs in a ‘safe and orderly’ manner and thus disrupt migrant smuggling networks and routes to the EU. Main steps were: the European Commission’s 2015 Agenda on Migration, aimed at expanding the use of resettlement by EU Member States as a key priority; adoption of an agreement by the Council in July 2015 adopting to resettle 20,000 persons in need of protection from third countries. In September 2017, a new resettlement scheme was adopted by the European Commission: at least 50,000 among the most vulnerable persons in need of international protection were pledged to be resettled in Europe by 31 October 2019. Resettlement is also an important element of the EU-Turkey Statement. Since March 2016, more than 40,000 Syrians have been resettled to EU countries.

Following its 2016 Communication towards a reform of the Common European Asylum system and legal avenues to Europe, actions represent a shift towards a potentially more active role for the European Union in coordinating and facilitating resettlement actions by EU Member States.

Discussions at EU level on other legal pathways to EU for persons in need of international protection, such as private sponsorship, family reunification, humanitarian admission, have also gradually been incorporated in the debate on resettlement.

The first Humanitarian Corridors project began precisely in conjunction with the start of this process. In fact, at national level, as the number of persons seeking protection in

the EU increased, Member States were increasingly interested in the use of public-private partnerships to facilitate the admission and reception of applicants for international protection. In particular, private actors have increasingly engaged in private sponsorship programmes to respond to pressing needs in the area of international protection⁴.

⁴ The Humanitarian Corridors Scheme differ from other schemes, among other things, because it gives sponsors a high level of responsibility throughout the process of identifying, facilitating the departure of, and settling of beneficiaries, from identification to integration.

Part II. Options for EU action

This section presents a description of the options for possible EU action to support Humanitarian Corridors that have been elaborated as part of the “Humcore” project. These include the ‘no change’ option, in which no additional EU action is undertaken, an option which envisages some ‘soft’ measures, as well as a financing/funding option and a legislative option.

Option 1: Status quo

A first option for EU action would be to maintain the status quo. This would mean that Member States retain the liberty to set up sponsorship programmes (and, if it is the case, Humanitarian Corridors programme) or not and, if they do so, the freedom to design, support, and operate their sponsorship programmes (and, if it is the case, Humanitarian Corridors programme) as they choose. The EU level would continue to have a limited remit to steer the setup and the design of these programmes, and any input from the EU level would come primarily through existing measures which could be used, to a limited extent, to shape and support the development and implementation of resettlement and integration projects.

This option means that Member States decide whether to establish or not the Humanitarian Corridors programme (as they decide upon to establish or not to establish sponsorship schemes), in partnership with CSOs, private charities, etc. (the Promoters of the Humanitarian Corridors).

As for the CSOs or private charities, they rely primarily on their own funding or funding at the national level for the creation and operation of the Humanitarian Corridors programme.

The EU level will continue to act as it made in the past or recent past, and notably by funding some elements of sponsorship programmes (and, just in case, some elements of the Humanitarian Corridors schemes) under the existing AMIF.

Even though neither the AMIF Regulation nor its Annual Work Programmes have explicitly mentioned this funding option so far, it is legally possible under the current Regulation. But without a specific mention of “*sponsorship*”, the existing funding structure neither encourages nor discourages the set up and implementation of sponsorship programmes⁵ (or the Humanitarian Corridors programmes). Member States can access financial support for sponsorship via the AMIF through Union Actions and National Programmes, as well as through lump sum funding allocated for resettlement⁶.

The EU level would continue to provide the legal framework within which the sponsorship schemes (and, if it is the case, the Humanitarian Corridors programmes) need to operate (i.e. asylum acquis) and as such monitor compliance as new programmes are set up or are revised by Member States.

Option 2: Soft measures

A second option would be for the EU institutions to support Humanitarian Corridors (as assimilated to sponsorship schemes) using financing of soft measures (e.g., training programmes, capacity building, toolkits and operational guidance, and peer-learning activities) which can be undertaken by the Promoters of the programme for institutions and civil society organizations across Europe. Soft measures and peer support initiatives could be funded via existing EU funding lines (e.g. via the AMIF, as in the case of the “Humcore” project) and coordinated by an EU body. This kind of measures are already implemented as part of the multiannual financial framework and not require a change in existing regulations.

⁵ See “Study on the feasibility and added value of sponsorship schemes as a possible pathway to safe channels for admission to the EU, including resettlement”,

⁶ Some Calls for proposals under Union Actions have explicitly referred to actions to develop or support elements of sponsorship programmes. Sponsorship programmes that operated within the context of resettlement and facilitated Member States’ contributions to the Union Resettlement Programme could be eligible for lump sum funding (EUR 6,000 or EUR 10,000) if the AMIF definition of resettlement is respected.

Option 3: Funding of sponsorship schemes (and Humanitarian Corridors)

This option for the EU institutions consists in supporting sponsorship schemes / humanitarian corridors using relevant funding instruments, targeting sponsorship schemes / humanitarian corridors specifically.

Support to sponsorship schemes is provided under the current 2021-2027 Asylum, Migration Fund (AMIF): Member States can access financial support for sponsorship via the AMIF through Union Actions and National Programmes, as well as through lump sum funding allocated for resettlement. Private sponsorship schemes fall under its scope of support. Article 3(2)(a) specifies that the Fund shall contribute “to strengthen and develop all aspects of the Common European Asylum System, including its external dimension”, and in particular “support the actions listed in Annex III(2)(g), as “actions related to Union resettlement programmes or national resettlement and humanitarian admission schemes, including the conducting of procedures for their implementation”.

The Fund’s implementation is foreseen by means of shared or direct/indirect management. Member States’ national programmes represent a funding opportunity for sponsorship schemes. Funds are allocated to Member States that adopt multiannual national programmes and can target the set-up and development of specific private sponsorship programmes. Member States’ programmes would fall under the thematic facility, and the European Commission could target support for designing, implementing and/or monitoring and evaluating a sponsorship programme as a specific priority in its annual or multiannual programmes.

Option 4: Legislative action

This option refers to two different, but interconnected, fields of action:

- Legislative action taken by the European Union with the aim of establishing a common or harmonised EU system of private sponsorship to support resettlement and other legal pathways to protection, and, thus, Humanitarian Corridors.
- Legislative action taken by European Union with the aim of introducing modifications or adjustments to Regulation (EC) No 810/2009, specifically to Article 25.

As for the first point, while this option could materialise in several ways, the need for an additional legislative instrument specifically on private sponsorship mostly depends on the outcome of the ongoing negotiations on the proposal for a Union Resettlement Framework Regulation.

As for the second point, it is worthy to note that any proposal to enhance Article 25 of Regulation No. 810/2009 largely depends on the orientation of the Member States. With the sole intention of revisiting some of the guidelines and proposals that have emerged so far in this regard, the following may be cited:

- The visa referred to in Article 25 should be subject to the same procedural regulations and the same appeal possibilities as other types of visas contained in the Regulation, with the important difference, however, that the Member State cannot simply invoke one of the grounds of inadmissibility listed in Article 32, paragraph 1 (which can be disregarded for this particular type of visa). Instead, it must, in any case, examine the humanitarian reasons invoked and can only refuse the visa if these reasons are deemed inadequate or unfounded. The applicant still has the possibility to appeal under Article 32, paragraph 3⁷.
- The establishment of "an independent and separate scheme for humanitarian visas to be issued in the form of uniform Schengen visas valid for the entire Schengen area rather than VTLs⁸"

Two significant innovations have been, thus, implicitly or explicitly proposed coming from different instances over the last decade, although of different importance. The first consists of asserting an actionable subjective right to the issuance of a visa for humanitarian reasons. The second - represented by the spatial validity of the visa, no longer limited to a single national territory - could instead allow beneficiaries to bypass the jurisdictional rules set by the "Dublin System", choosing the airport border entry point in Europe.

⁷ Court of Justice, Case C-638/16 (Xx v. the Kingdom of Belgium). Conclusions de l'Avocat général, M.P. Mengozzi, présentées le 7 février 2017, Affaire C-638/16 (PPU), Xx c. État belge.

⁸ Consiglio Italiano per i Rifugiati-C.I.R., Ponti, cit., p. 71.

In the event that these prospective legal developments were to find a response in European legislation, there would undoubtedly still remain a space, not regulated in the same terms, to be allocated to the management of VTL visas functional to the particular needs, even of a humanitarian nature, of individual Member States. For this reason, abandoning a form of visa would not be desirable⁹.

Another proposal has been advanced which, without asserting the mandatory issuance of visas for humanitarian reasons (which would thereby correspond directly to asylum visas), considers it a priority to expand their use in relation to the scale and intensity of humanitarian crises, the possibilities and/or priorities of the Member States competent to issue the visas, and the requests coming from sponsors, who are adequately selected.

Whatever the legislative path to be taken in this regard, it would be appropriate, first of all, to modify the approach contained in the Schengen Common Consular Instructions (particularly in Part I, paragraph 2.3, and Part V, paragraph 3) where the exceptional nature of issuing limited territorial validity visas under Article 25 of Regulation (EC) No. 810/2009 is emphasized. This leads some interpreters to reiterate its current possible use only for small numbers.

Assessment of the options

Measures considered for the EU action under option 2 are already implemented as part of the multiannual financial framework.

Legislative changes under Option 4, although desirable and possible, require a long approval process and the broadest consensus among Member States.

Option 1 and Option 3 are being considered for the formulation of the proposals of action.

⁹ Cfr. Paolo Morozzo della Rocca, I due Protocolli d'Intesa sui "Corridoi Umanitari" tra alcuni enti di ispirazione religiosa ed il governo ed il loro possibile impatto sulle politiche di asilo e immigrazione (in *Diritto, Immigrazione e Cittadinanza* Fascicolo n. 1/2017).

Part III. Proposals of interventions in the current EU legislation/practices

Objectives

To adopt measures supporting private sponsorships/humanitarian corridors schemes. This result may be achieved through future legislative developments of the AMIF Regulation and/or through including further support for sponsorship/humanitarian corridors programmes as a specific priority in its annual or multiannual programmes.

Proposals

- Explicitly include the private sponsorships/humanitarian corridors schemes among the instruments to implement the projects supported by AMIF.

The realisation of this option would be facilitated by establishing the future Fund (2027+) to target support to private sponsorship/humanitarian corridors specifically. Without a specific mention of sponsorship / humanitarian corridors, the funding structure would neither encourage nor discourage the set up and implementation of sponsorship programmes / humanitarian corridors. Member States could not be aware of the possibility to use the Fund to support sponsorship / humanitarian corridors. Moreover, the European Commission could further target support for designing, implementing and/or monitoring and evaluating a sponsorship / humanitarian corridors programme as a specific priority in its annual or multiannual programmes, adopted by Commission Implementing Decision.

This mention may be inserted in an Annex of the future regulation of the Fund, corresponding to Annex 2 (d) of the current AMIF regulation, according to which:

“The Fund shall contribute to the specific objective set out in point (b) of Article 3(2) by focusing on the following implementation measures:

...

(d) promoting integration measures for the social and economic inclusion of third-country nationals and protection measures for vulnerable persons in the context of integration measures, facilitating family reunification and preparing for the active participation of third-country nationals in, and their acceptance by, the receiving society, with the involvement of national and, in particular, regional or local authorities and civil society organisations, including refugee organisations and migrant-led organisations, and social partners.”

- Broaden the actions listed in Annex III (2) (g) of the AMIF regulation

As the AMIF regulation is currently formulated, private sponsorship schemes fall under its scope of support. Article 3(2)(a) specifies that the Fund shall contribute “to strengthen and develop all aspects of the Common European Asylum System, including its external dimension”, and in particular “support the actions listed in Annex III¹⁰” - (2)(g), as “actions related to Union resettlement programmes or national resettlement and humanitarian admission schemes, including the conducting of procedures for their implementation”. Although this definition comprises the majority of sponsorship programmes, it could also be broadened in order to include other channels of entry implemented by Member States in partnership with private actors, apart from those that could be classified under national resettlement or humanitarian admission schemes.

- Strengthen support to sponsorship schemes (and humanitarian corridors) using relevant funding instruments targeting sponsorship schemes specifically

AMIF is implemented by means of shared or direct/indirect management. The global resources are allocated for Member States’ programmes and to the thematic facility, which periodically provide funding for several specific priorities, defined through annual or multiannual work programmes adopted by Commission Implementing Decision. This includes the disbursement of funds for specific actions at national or transnational level, Union actions, emergency assistance, resettlement, solidarity and responsibility efforts and the European Migration Network. The thematic facility envelope is also used for the technical assistance at the initiative of the Commission. Member States’ national

¹⁰ Article 4(1)

programmes represent a funding opportunity for sponsorship schemes. Funds are allocated to Member States that adopt multiannual national programmes and can target the set-up and development of specific private sponsorship programmes (and humanitarian corridors). Member States' programmes fall under the thematic facility, and the European Commission can target support for designing, implementing and/or monitoring and evaluating a sponsorship programme as a specific priority in its annual or multiannual programmes. The realisation of this option would be facilitated by establishing, in the proposal of regulation for the AMIF 2027+, the Fund to target support to private sponsorship (and humanitarian corridors) specifically. European Commission could include systematically in its annual or multiannual programmes specific support for private sponsorship (and humanitarian corridors). To be effective, this support should foresee at least one call per year (as an example, the call for proposal titled "Promoting community sponsorship schemes and integration of persons in need of protection AMIF-2023-TF2-AG-CALL-01-SPONSORSHIP" can be considered). CSOs should be considered among the eligible organizations of these calls for proposals. The topics addressed by the calls for proposals should address firstly the implementation, the impact and the sustainability of the sponsorship as regards numbers of persons in need of international protection covered and the effectiveness of integration of the persons in need of international protection, and secondly the quality of the programmes. As well known, medium and long-term integration of third-country nationals is not under the AMIF any more, but falls under the Cohesion Policy Funds, in particular the ESF+¹¹. However, short-term integration of third-country nationals continues to be funded via the

¹¹ As matter of fact, the Recital n. 15 of Regulation AMIF establishes that: "AMIF should support measures tailored to the need of third-country nationals that are generally implemented in the early stages of integration, as well as horizontal measures supporting Member States capacities, whereas interventions for third-country nationals with a longer-term impact should be financed under the European Social Fund and the European Regional Development Fund". In addition: "In order to optimise the added value from investments funded wholly or in part through the Union budget, synergies should be sought, in particular, between the Fund and other Union programmes, including those under shared management. To maximise those synergies, key enabling mechanisms should be ensured, including cumulative funding for an action from the Fund and from another Union programme. Such cumulative funding should not exceed the total eligible costs of that action. For that purpose, this Regulation should set out appropriate rules, in particular on the possibility of declaring the same cost or expenditure under both the Fund and another Union programme on a pro-rata basis" ("recital" no. 33 AMIF Regulation; see also Article 9)



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*Proposal n. 101038285 – Co-Funded by the Asylum, Migration
and Integration Fund of the European Union*



AMIF through support actions to national governments, local and regional authorities and civil society groups.

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and Integration Fund of the European Union*



Study on the feasibility and added value of sponsorship schemes as a possible pathway to safe channels for admission to the EU, including resettlement October 2018

Appendix The EU Legislative Frameworks and other legal sources on Admission of Refugees and Migration

EU Act	Application
<p>Tampere European Council Conclusions (1999)</p>	<p>Formation of a new approach to the EU's common immigration policy - the EU's cooperation with third countries, this is emphasized separately on the external aspect of the internal security of the Union.</p> <p>It was emphasized the fulfilment by third countries of the functions of protecting the EU borders, which after further expansion will be shifted to the east, and the establishment of <i>general criteria</i> for the procedure for entry of third-country nationals into the territory of EU member states.</p> <p>The European Council was to promote close cooperation and mutual technical assistance between the border services of the EU member states, especially on the protection of maritime borders, and the further involvement of third states in this area.</p> <p>In this context, the European Council praised the signing of the Memorandum of Understanding between Italy and Greece on their enhanced cooperation in the Adriatic and Mediterranean Seas in such areas as the fighting against organized crime, human trafficking, etc.</p>
<p>Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents</p>	<p>The document defines the conditions under which citizens of third countries residing in the EU for a long time can enjoy the right to freedom of movement.</p> <p>In particular, in accordance with the provisions of the Directive, to obtain the status of long-term residence, a third-country citizen must meet the following basic requirements:</p> <p>a) legally and for at least 5 years reside within the territory of a certain EU Member State.</p>

	<p>b) Receive a stable income and health insurance for themselves and their family members.</p> <p>In addition to these basic requirements, optional requirements are also provided. These include: compliance with the integration conditions established by the national legislation of the relevant EU Member State (for example, language proficiency or knowledge of the history of the host country) and documentary evidence of proper living conditions</p>
<p>Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification</p>	<p>Defines the conditions for the use of the right to family reunification and creates conditions for family members of legal immigrants to move to the European Union, as well as provides them with the opportunity to engage in labour or other socio-economic activities in the EU member states.</p> <p>The term "family reunification" means entry into the territory of an EU member state and residence in the territory of that state of family members of a third country citizen legally residing in this Member State in order to preserve family unity, regardless of whether family ties have arisen before or after the entry of a person reuniting the family (Art. 2).</p> <p>The Directive states that family members who include the spouses of such a person have the right to reunification (while same-sex marriages that are allowed by the national law of individual EU Member States are not recognized by EU law) and their minor children, including children adopted in accordance with a decision adopted by the competent authorities of the EU Member State (in which the sponsor received permanent residence status), or a decision in force in connection with the international obligations of the member state concerned or one to be recognized in accordance with international obligations. For these family members, admission to the association is unconditional (cl. 1 of Article 4)</p>

	<p>This document leaves many issues unresolved at the level of the European Union, which necessitates an appeal to the national law of the EU member states.</p> <p>In addition, this directive defines low, compared to international standards for the right to family reunification, but this does not limit the possibility of EU member states applying higher standards in accordance with their international legal obligations in the field of human rights protection.</p> <p>Thus, Directive 2003/86 establishes <u>minimum standards for family reunification</u>. This means that EU member states have the right to enshrine in national legislation higher standards in the field of family reunification.</p> <p>In addition, this Directive <u>does not establish a ban on the conclusion by the EU</u> (alone or together with the EU Member States) of agreements that provide a more favourable regime for family members of third-country nationals</p>
<p>Council Regulation 1030/2002 on a single format of permission</p>	<p>The uniform format of the permit is issued for a period of 10 years, which is automatically renewed. The status of an EU resident may be revoked, in particular due to the person's lack of permanent residence in the state for a period of more than 2 years.</p> <p>At the same time, an EU member state may refuse third-country nationals to obtain the status of long-term residence on the basis of their threat to the state policy and national security of the host country.</p> <p>In general, the status of long-term residence is based on the principle of equality, which consists in providing third-country citizens with the same rights as their own citizens.</p> <p>The content of equal rights includes: access to paid and unpaid work, working conditions and working</p>

	<p>conditions; the right to education and internships, recognition of qualifications; social protection; freedom to participate in associations, unions and the ability to represent them; social benefits, access to goods and services, etc. It should be noted that this principle is not absolute. For example, if the working conditions of citizens of third countries with the status of long-term residence are provided in the same way as the provisions of Part Art. 45 TFEU provided for EU citizens, access to work is limited</p>
<p>Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities</p>	<p>The document defines <i>the conditions for granting residence permits for third-country nationals</i> who work with the relevant authorities in the fight against human trafficking or illegal immigration, even if these persons illegally entered the territory of the Schengen state.</p>
<p>Directive 2009/50/EC on highly skilled employment (EU Blue Card)</p>	<p>In order to introduce a joint expedited procedure for the admission of workers with qualifications that are needed in the European Union, Directive 2009/50 was adopted in regard of: the existence of an employment contract or an invitation to work; valid international documents; a document certifying health insurance, etc.</p> <p>The competent authorities of the host EU member state decide to provide this person with the "EU Blue Card". The validity period of the latter is from one to four years with the possibility of renewal.</p> <p>In accordance with Directive 2009/50, holders of the "EU Blue Card" are subject to the principle of "equal treatment" with citizens of the host EU member state regarding: working conditions; freedom of association; education, internships and recognition of qualifications;</p>

	<p>social protection and pensions; access to goods and services.</p>
<p>Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service</p>	<p>Defines the conditions for admission of four categories of third-country nationals: students, pupils, trainees, volunteer workers.</p> <p>The Directive provides for harmonized conditions for their entry and stay in the EU, including rules for issuing and extending residence permits.</p> <p>The document defines the general conditions for obtaining an entry permit and a residence permit.</p> <p>The deadlines for residence permits of these categories of persons differ: for students – from one year, and for other categories of persons – no more than one year.</p> <p>For example, if the study covers a period of less than one year, then a residence permit is provided to students for the period of this study. For students – no more than one year (with certain exceptions); volunteers – no more than one year (with a certain exception).</p>
<p>Directive 2011/98/EU on a single application procedure for a single permit and equal treatment of third-country workers</p>	<p>The document establishes a single procedure for submitting an application for granting permission to citizens of third countries to stay in the territory of the EU Member States to perform their work.</p> <p>In addition, the document simplified the procedure for admitting third-country nationals to the territory of the European Union.</p> <p>In particular, a petition for the issuance, modification or extension of a single permit must be granted through the application of a single application procedure. This procedure should not be contrary to the visa procedure, which may be a requirement for initial entry. Particular attention in this directive is paid to the status and general set of rights for workers from third countries legally residing in the European Union.</p>

	<p>Thus, workers from third countries have the right to equal treatment of citizens of the EU member state in which they live.</p> <p>Third-country nationals are equal in rights with EU citizens regarding: working conditions; freedom of association and membership in the organization; education and vocational training; recognition of diplomas, certificates and other professional qualifications in accordance with the relevant national procedures; types of social security; tax benefits; access to goods and services at the disposal of the public, including procedures for obtaining housing; consulting services provided by employment agencies, etc.</p>
<p>Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers</p>	<p>The document defines the conditions for entry and stay of third-country nationals in the EU for the purpose of employment as seasonal workers, i.e. on a seasonal basis.</p> <p>In particular, the Directive establishes a number of criteria and requirements for obtaining a residence permit for a period not exceeding 90 days.</p> <p>These include the submission of the following documents: a) a valid employment contract or a binding offer of the employer to work as a seasonal worker in a particular EU member state, which defines the place and type of work; duration of employment; remuneration for work; working hours during the week/month; the amount of paid leave; other essential working conditions; (if possible) the date of commencement of work by the employee; b) proof of the existence or application for the purpose of obtaining insurance in case of illness, covering all possible risks normally covered by the insurance of citizens of the Member States; c) confirmation that the seasonal worker will have adequate housing or that such housing will be provided to him.</p>

	<p>At the same time, EU member states should require seasonal workers to refrain from applying for social assistance.</p> <p>A Member State may also require the applicant to provide documentation confirming the qualifications of a third country national and confirming his/her ability to perform seasonal work stipulated in the contract (Article 5)</p> <p>In addition to the basic requirements, seasonal workers must have a valid travel document that must be valid for at least the period for which permission to stay in the EU for the purpose of seasonal employment has been granted. Permission to stay in the territory of a Member State is not granted to a third country national if there are reasons to believe that his stay poses a threat to public order, national security and public health.</p> <p>In accordance with Directive 2014/36/EC, EU Member States have the right to determine the number of third-country nationals who may be granted permission to enter and stay for the purpose of seasonal employment. On this basis, based on this provision, any application for such permission may be declared inadmissible or rejected (Article 7)</p>
<p>Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer</p>	<p>This directive facilitates the process of relocation of workers within the framework of intra-corporate transfers within the European Union. The document also defines the conditions of entry and residence for more than 90 days of third-country nationals and their family members within the framework of such transfers.</p> <p>The provisions of the Directive also define the procedures for submitting documents for obtaining such a permit and the grounds for refusal.</p> <p>Employees who have received permission for an internal corporate transfer have the right to enter and</p>

	<p>stay in the territory of an EU member state, free access to its entire territory, as well as the possibility of carrying out activities provided for by the permit. Such employees are also allowed to work in another EU member state for a short period (up to 90 days within six months) at an enterprise that is part of the same structure.</p> <p>To disseminate information on opportunities for legal migration and employment in the European Union, a European immigration WEB portal was created in 2011.</p>
<p>Regulation (EU) 2021/1147 of the European Parliament and of the Council of 7 July 2021 establishing the Asylum, Migration and Integration Fund</p>	<p>In order to support efforts to ensure a comprehensive approach to the management of migration that is grounded on mutual trust, solidarity and fair sharing of responsibility among Member States and Union institutions, with the objective of ensuring a common sustainable Union policy on asylum and immigration, Member States should be supported by adequate financial resources in the form of an Asylum, Migration and Integration Fund.</p>
<p>Dublin Convention 1990</p>	<p>The Dublin Convention stipulates that all its participants are safe countries to which asylum seekers can be referred. Thus, within the meaning of the 1990 Dublin Convention, a safe third country is a country in which the right of third-country nationals to apply for asylum is guaranteed. In addition, each EU member state has the opportunity to independently decide which other countries to consider as “third safe countries”</p>
<p>Geneva Convention relating to the Status of Refugees of 1951 with Protocol 1967</p>	<p>The documents establish criteria and mechanisms for determining the EU member state responsible for handling asylum applications; minimum standards for the acceptance of asylum seekers in the EU member states have been defined; minimum standards have been introduced for the qualification of third-country nationals as refugees; minimum standards on procedures for granting and depriving refugee status in EU member states, etc. have been provided.</p>

	<p>Compliance with the provisions of the Geneva Convention of 1951, the Protocol of 1967, as well as other international documents governing the field of asylum, provided for by the constituent treaties of the EU, namely: Art. 78 TFEU.</p>
<p>Protocol No. 24 on the right to asylum for citizens of third member states to Lisbon Treaty</p>	<p>The main purpose of adopting this protocol was to ensure that every EU citizen has the right to free movement and residence in the territory of other EU member states.</p> <p>The document contains only one article, which provides for the submission of a petition by a citizen of one of the EU member states for asylum and consideration of this issue by the relevant state</p>
<p>Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status</p>	<p>According to the document, a safe third country should be considered a democratic country in which there is no form of persecution; torture or inhuman or degrading treatment or punishment; there is no threat of violence and armed conflict</p>
<p>Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted</p>	<p>The document establishes that a person is subject to readmission to a third safe country only if such a country guarantees effective access of this person to the protection of his rights (Article 38).</p> <p>The document also stipulates that the EU member states apply this concept only if their competent authorities are confident that in the relevant third country the life and freedom of the applicant are not endangered on the basis of race, religion, nationality, belonging to a certain social group or political beliefs; the state adheres to the principle of prohibition of expulsion in accordance with the Geneva Convention relating to the Status of Refugees of 1951; the country applies the principle of prohibition of expulsion in case of violation of the right to non-use of torture, cruel, inhuman or degrading treatment provided for by international law; it is possible to apply for refugee status and, if granted such status, to receive protection</p>

	in accordance with the Geneva Convention relating to the Status of Refugees of 1951.
Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted	The document states that any third-country national who is outside the country of origin and a stateless person who is outside the country of permanent residence who does not intend to return to that country for fear of being persecuted on the basis of race, religion, nationality, political views or membership in certain social groups may apply for refugee status.
Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention	EU member states have been able to identify asylum applicants and persons who were detained while illegally crossing the external borders of the EU. For example, by comparing fingerprints, EU Member States can accurately determine whether an asylum applicant or a foreigner who is illegally in the territory of an EU member state has previously applied for asylum in another Member State. The adoption of such a document contributed to facilitating the passage of the procedure by third parties on the external borders of the EU.
Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national	<p>The document establishes the criteria and mechanisms for determining the Member State responsible for reviewing asylum applications submitted by third-country nationals in the territory of any of the EU Member States. This regulation is known in EU law as the Dublin II Regulation. To date, a number of amendments and additions to the above-mentioned documents have been adopted by EU Council Regulation No. 604/2013 (known in EU law as <i>the Dublin III Regulation</i>).</p> <p>In accordance with Art. Art. 3(1) of the document establishes that EU Member States consider each application for international protection submitted by a third-country national or a stateless person. In addition, such an application is considered by only one EU</p>

	<p>member state. In the event that another State is responsible according to the criteria established in the Regulations for the consideration of the petition, the applicant is transferred to that State in accordance with the procedure specified in the Regulations</p> <p>The document also defines the time limits within which the state must respond to a request for the return of a person seeking asylum or undertake obligations against such a person (Articles 21, 22, 25, 29).</p>
<p>The Asylum Procedure Directive</p>	<p>Art. 6 of this document defines in detail the asylum procedure. There are requirements for EU member states to register an application within three working days or six working days if the application is submitted to an authority that is not authorized to register it.</p> <p>This article defines the obligation of states to provide persons with a real opportunity to quickly apply. The guarantees provided for in the Directive come into force from the moment of access to the procedure.</p> <p>Nevertheless, all these guarantees do not apply to persons who cannot enter the territory of the state, the border, or the transit zone.</p> <p>The document provides an opportunity for EU member states to consider asylum applications directly at the border (Article 43).</p> <p>In this case, decisions may be made regarding the inadmissibility of applications. There are also situations of decision-making on the merits of the application in cases where expedited procedures may be applied in accordance with Art. 31 documents.</p>
<p>Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast)</p>	<p>Within 15 days of filing an asylum application, applicants must be informed of the benefits to which they will be entitled and of the duties they must fulfil in relation to the conditions of admission (Art. 5).</p> <p>It is also necessary to provide information about available legal assistance or support. The information must be provided in a language understandable to the</p>

	<p>applicant. Asylum seekers have the right to appeal against the decision of the authorities to refuse to provide benefits (Article 26)</p> <p>Failure to fulfil the obligations provided for in this directive may become the basis for a claim in connection with a violation of the legislation of the European Union with the subsequent payment of compensation to the relevant persons.</p>
<p>European Commission, Action plan on Integration and Inclusion 2021-2027 COM/2020/758 final</p>	<p>The Action plan on Integration and Inclusion 2021-2027 proposes concrete actions to support Member States and other relevant stakeholders in overcoming integration-related challenges for migrants and EU citizens with a migrant background. Although national governments are primarily responsible for implementing social policies, the EU plays a key role in supporting Member States through funding, capacity-building and the creation of new partnerships.</p>