

Crisis and force majeure Regulation

2020/0277(COD) - 22/05/2024 - Final act

PURPOSE: to make the necessary adjustments to the rules on asylum procedures and, where appropriate, to those on solidarity, to ensure that Member States are able to deal with crisis situations and cases of force majeure in the management of asylum and migration within the Union.

LEGISLATIVE ACT: Regulation (EU) 2024/1359 of the European Parliament and of the Council addressing situations of crisis and force majeure in the field of migration and asylum and amending Regulation (EU) 2021/1147.

CONTENT: this Regulation establishes a framework enabling Member States to **respond to crisis situations in the area of asylum and migration**. It is the fifth component of the Pact on Migration and Asylum.

The Regulation provides a **stable and predictable** framework at EU level for managing crisis situations or cases of force majeure, and includes a reinforced solidarity component guaranteeing that all the needs of the Member States concerned will be met, as well as procedural derogations for the Member States. The measures adopted under the Regulation will be applied only to the extent strictly required by the situation, on a temporary and limited basis and only in exceptional circumstances.

Situation of crisis, instrumentalisation, force majeure

The Regulation defines a **situation of crisis** as an exceptional situation of mass arrivals of third-country nationals or stateless persons in a Member State by land, air or sea, including those disembarked following search and rescue operations. The main criterion is that the situation renders a Member State's asylum, reception (including child protection services), or return system non-functional, to the point that there may be serious consequences for the functioning of the Common European Asylum System as a whole.

A situation of **instrumentalisation** could arise where a third country or a hostile non-state actor encourages or facilitates the movement of third-country nationals or stateless persons to the external borders of the Union or to a Member State, where such actions are indicative of an intention of a third country or a hostile non-state actor to destabilise the Union or a Member State, and where such actions are liable to put at risk essential functions of a Member State, including the maintenance of law and order or the safeguard of its national security.

'**Force majeure**' situations refer to abnormal and unforeseeable circumstances outside a Member State's 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 prevent the Member State from complying with its obligations under Union law.

Support for Member States

Under the Regulation, Member States will be authorised to **adapt certain rules**, for example concerning the registration of asylum applications or the asylum procedure at the border. These Member States will also be able to request solidarity and support measures from the EU and its Member States.

These exceptional measures and solidarity support require a **Council implementing decision** authorising derogations and establishing solidarity measures. This decision will be adopted within **two weeks** of receiving a proposal from the Commission. The period of application of the derogations and solidarity

measures provided for in the Council implementing decision will be **three months**. This period may be extended once for three months after confirmation by the Commission that the situation of crisis or force majeure persists.

Exceptional measures in crisis situations

Member States faced with a crisis situation, a situation of instrumentalisation or a case of force majeure may derogate from some of the rules on responsibility laid down in EU asylum legislation, in particular:

- applications for international protection may be registered no later than **four weeks**, rather than seven days, after they are lodged;
- the Member State concerned will be able to extend the time limit for examining applications for international protection at the border by **six weeks**;
- a Member State will also be able to request changes to the criteria used to determine whether the applicant should be examined as part of the border procedure (for example, by raising the threshold for the recognition rate to 50%);
- Member States in crisis situations will be released from their obligation to take back asylum seekers from another EU country, as they would be required to do in normal circumstances.

Solidarity with countries confronted with a crisis situation

A Member State facing a crisis situation will be able to request solidarity contributions from other EU countries. These contributions are similar to those agreed under the Regulation on asylum and migration management, i.e. the relocation of asylum seekers or beneficiaries of international protection from the Member State in crisis to the contributing Member States, liability compensation and financial contributions or other solidarity measures.

Fundamental rights guarantees

This Regulation respects the fundamental rights of third-country nationals and stateless persons and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the respect and protection of human dignity, prohibition of torture and inhuman or degrading treatment or punishment, respect for private and family life, the principle of the best interests of the child, the right to asylum and protection in the event of removal, expulsion or extradition, as well as the Geneva Convention Relating to the Status of Refugees of 28 July 1951.

For the purpose of applying the derogations, the basic principles of the right to asylum and the respect of the principle of non-refoulement will apply to ensure that the rights of those who seek international protection, including the right to an effective remedy, are protected.

ENTRY INTO FORCE: 11.6.2024.

APPLICATION: from 1.7.2026.