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| Subject: | Amended proposal for a Regulation of the European Parliament and of the Council establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU<br>– consolidated text |

Delegations will find in Annex the consolidated text of the above proposal as agreed between the Spanish Presidency and the Rapporteur on 20 December 2023. Please note that the order of the Articles 7 and 8 have been reverted in line with the political agreement.

As agreed during the trilogues, the Legal Services of the EP and the Council are working to jointly present a technical solution for variable geometry, which does not have an impact on the content of the concerned provisions and recitals as provisionally agreed in the trilogues. The consolidated text in its current version does not take into account and include yet the outcome of that legal/technical assessment, which will be discussed in a separate meeting in COMIX-format.

**ANNEX**

2016/0224 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU**

[…]

# CHAPTER I
# GENERAL PROVISIONS

*Article 1*

**Subject matter**

This Regulation establishes a common procedure for granting and withdrawing international protection referred to in Regulation (EU) No XXX/XXX (Qualification Regulation).

*Article 2*

**Scope**

1. This Regulation applies to all applications for international protection made in the territory of the Member States, including at the external border, in the territorial sea or in the transit zones of the Member States, and to the withdrawal of international protection.

2. This Regulation does not apply to applications for international protection and to requests for diplomatic or territorial asylum submitted to representations of Member States.

*Article 3*

**Extension of the scope of application**

Member States may decide to apply this Regulation to applications for protection to which Regulation (EU) No XXX/XXX (Qualification Regulation) does not apply.

*Article 4*

**Definitions**

1. For the purposes of this Regulation, the following definitions apply:

   (a) […]

   (b) 'refugee' means a third-country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned , is unable or, owing to such fear, unwilling to return to it, and to whom Article 12 of Regulation (EU) No XXX/XXX (Qualification Regulation) does not apply;

(c) ‘person eligible for subsidiary protection’ means a third-country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm as defined in Article 16 of Regulation (EU) No XXX/XXX (Qualification Regulation), and to whom Article 18(1) and (2) of that Regulation does not apply, and is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country;

(d) 'international protection' means refugee status or subsidiary protection status as defined in points (e) and (f);

(e) 'refugee status' means the recognition by a Member State of a third-country national or a stateless person as a refugee in accordance with Regulation (EU) No XXX/XXX [(Qualification Regulation)];

(f) 'subsidiary protection status' means the recognition by a Member State of a third-country national or a stateless person as a person eligible for subsidiary protection in accordance with Regulation (EU) No XXX/XXX [(Qualification Regulation)];

(g) ‘minor’ means a third-country national or stateless person below the age of 18 years;

(h) ‘unaccompanied minor’ means a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her, whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such an adult, including a minor who is left unaccompanied after he or she has entered the territory of Member States;

(i) […]

(j) […]

(k) […]

(l) 'final decision' means a decision on whether or not a third-country national or stateless person is granted refugee status or subsidiary protection status by virtue of Regulation (EU) No XXX/XXX [(Qualification Regulation)], including a decision rejecting the application as inadmissible or a decision rejecting an application as implicitly or explicitly withdrawn, which is no longer subject to a remedy within the framework of Chapter V of this Regulation or has become definitive according to national law, irrespective of whether the applicant has the right to remain in accordance with this Regulation;

(m) ‘examination of an application for international protection’ means examination of the admissibility or the merits of an application for international protection in accordance with this Regulation and Regulation (EU) No XXX/XXX [(Qualification Regulation)];

([…]n)'determining authority' means any quasi-judicial or administrative body in a Member State responsible for examining and taking decisions on applications for international protection at the administrative stage of the procedure;

([…]o) […];

([…]p) 'withdrawal of international protection' means the decision by a determining authority or a competent court or tribunal to revoke or end, including by refusing to renew, the international protection in accordance with Regulation (EU) No XXX/XXX [(Qualification Regulation)];

([…]r) […]

([…]s) […];

([…]t) 'Member State responsible' means the Member State responsible for the examination of an application in accordance with the criteria laid down in Regulation (EU) No XXX/XXX [(AMMR Regulation)];

(u) […]

(v) […]

(w) ‘biometric data’ means fingerprint data and facial image data in accordance with Article 3(p) of Regulation (EU) No XXX/XXX [(Eurodac Regulation)];

(x) ‘adequate capacity’ means the capacity required at any given moment to carry out the asylum and return border procedures.

2. […]:

(a) 'application for international protection' or 'application' means a request made by a third-country national or a stateless person for protection from a Member State, who can be understood to seek refugee status or subsidiary protection status;

(b) 'applicant' means a third-country national or a stateless person who has made an application for international protection in respect of which a final decision has not yet been taken;

(c) 'applicant in need of special procedural guarantees' means an applicant whose ability to benefit from the rights and comply with the obligations provided for in this Regulation is limited due to individual circumstances, such as specific vulnerabilities;

(ca) ‘stateless person’ means a person who is not considered as a national by any State under the operation of its law;

(d) [...]

(m) [...]

(e) 'determining authority' means any quasi-judicial or administrative body in a Member State responsible for examining applications for international protection, and competent to take decisions under the administrative procedure;

(f) […];

(g) 'withdrawal of international protection' means the decision by the determining authority or a competent court or tribunal to revoke or end, including by refusing [...] to renew, the international protection; in accordance with Regulation (EU) No XXX/XXX [(Qualification Regulation)];;

(h) 'remain in the Member State' means to remain in the territory, including at the border or in transit zones, of the Member State in which the application for international protection has been made or is being examined;;

(i) 'subsequent application' means a further application for international protection made in any Member State after a final decision has been taken on a previous application including cases where the application has been rejected as explicitly or as implicitly withdrawn;

(j) 'Member State responsible' means the Member State responsible for the examination of an application in accordance with Regulation (EU) No XXX/XXX [(AMMR Regulation);

*Article 5*

**_Competent_ authorities**

1. Each Member State shall designate in accordance with national law a determining authority to carry out its tasks as provided for in this Regulation and in Regulation (EU) No XXX/XXX [(Qualification Regulation)], in particular:

   (a) receiving and examining applications for international protection;;

   (b) taking decisions on applications for international protection;

   (c) taking decisions on the withdrawal of international protection.

   The determining authority shall be the only authority with the power to decide on the admissibility and the merits of an application for international protection.

2. Without prejudice to paragraph 1, Member States shall entrust other relevant national authorities with the task of receiving applications for international protection as well as informing applicants as to where and how to lodge an application for international protection in accordance with Article 27.

   These authorities shall include as a minimum the police, immigration authorities, border guards and authorities responsible for detention facilities or reception facilities.

3. Each Member State shall designate a competent authority to register applications for international protection. Member States may entrust the determining authority or other relevant authorities with the task of registering applications for international protection.

   (a) […]

   (b) […]

   (c) […]

   (d) […]

3-a. Where the application is received by an authority without the power to register it, that authority shall promptly inform the authority responsible for registering applications and the application shall be registered in accordance with Article 27. The authority responsible for receiving the application shall also inform the applicant for international protection which authority is responsible for the registering his or her application.

3-ab. For the purposes of paragraphs 2 and 3, each Member State shall notify by the date of application of this Regulation, the authorities designated to carry out these tasks, specifying the tasks assigned to them. Any changes in the identification of these authorities shall be notified to the Commission immediately.

3a. Member States may provide that an authority other than the determining authority shall be responsible for the procedure for determining the Member State responsible in accordance with Regulation (EU) XXX/XXX (AMMR Regulation).

4. Each Member State shall provide the determining authority and the other competent authorities with appropriate means, including sufficient competent personnel to carry out their tasks under this Regulation.

(a) […]

(b) […]

5. Member States shall ensure that the personnel of the competent authorities applying this Regulation have the appropriate knowledge and have received training, including the relevant training under Article 8 of Regulation (EU) 2021/2303 (EU Asylum Agency Regulation), and guidance to fulfil their obligations when applying this Regulation.

*Article 5a*

**Cooperation**

Without prejudice to Article 5, paragraph 4 and 5, upon request of the Member State, competent national authorities identified under Article 5 may be assisted for the purpose of receiving and registering applications for international protection and the examination of applications may be facilitated, including with regard to the personal interview, by:

(a) experts deployed by the European Union Agency for Asylum, in accordance with Regulation (EU) No 2021/2303 (EU Asylum Agency Regulation), and

(b) the authorities of another Member State who have been entrusted by that Member State with the task of receiving, registering or examining applications for international protection.

Competent authorities under Article 5 may assist the authorities of another Member State only for the tasks they have been entrusted with by their Member State.

The competence to decide on individual applications for international protection remains solely with the determining authority of the Member State responsible.

*Article 5b* [former Article 18]

**The role of the United Nations High Commissioner for Refugees**

1. Member States shall allow the United Nations High Commissioner for Refugees:

   (a) to have access to applicants, including those in reception centres, in detention, at the border and in transit zones;

(b) to have access to information on individual applications for international protection, on the course of the procedure and on the decisions taken, subject to the consent of the applicant;

(c) to present its views, in the exercise of its supervisory responsibilities under Article 35 of the Geneva Convention, to any competent authorities regarding individual applications for international protection at any stage of the procedure.

2. Paragraph 1 shall also apply to an organisation which is working in the territory of the Member State concerned on behalf of the United Nations High Commissioner for Refugees pursuant to an agreement with that Member State.

*Article 6*

**Confidentiality principle**

1. The authorities applying this Regulation shall be bound by the principle of confidentiality in relation to any personal information they acquired in the performance of their duties, including any exchange of information in accordance with Union and national law, relevant for the application of this Regulation, between authorities of the Member States.

2. Throughout the procedure for international protection and after a final decision on the application has been taken, the authorities shall not:

(a) disclose information regarding the individual application for international protection or the fact that an application has been made, to the alleged actors of persecution or serious harm;

(b) obtain any information from the alleged actors of persecution or serious harm in a manner that would result in such actors being informed of the fact that an application has been made by the applicant in question.

# CHAPTER II
# BASIC PRINCIPLES AND GUARANTEES

## SECTION I
### RIGHTS AND OBLIGATIONS OF APPLICANTS

*Article 7*

**General guarantees for applicants**

1. During the administrative procedure referred to in Chapter III applicants shall enjoy the guarantees set out in paragraphs 2 to 6 of this Article.

2. The determining authority or, where applicable, other competent authorities or organisations tasked by Member States for that purpose, shall inform applicants, in a language which they understand or are reasonably supposed to understand, of the following:

   (a) the right to lodge an individual application;

   (b) the time-limits and stages of the procedure to be followed;

   (c) their rights and obligations during the procedure, including those under Regulation (EU) No XXX/XXX (AMMR), and the consequences of not complying with those obligations, in particular as regards the explicit or implicit withdrawal of an application;

   (d) […];

(e) the right to enjoy free legal counselling for the lodging of the individual application and to legal assistance and representation at all stages of the procedure pursuant to Section III in accordance with Articles 14, 15, 15a, 16 and 17;

(f) the means at their disposal for fulfilling the obligation to submit the elements as referred to in Article 4 of Regulation (EU) No XXX/XXX (Qualification Regulation);

(g) […]

(h) the decision of the determining authority in accordance with Article 35.

All the information referred to in this paragraph shall be given as soon as possible to enable the applicants to exercise the rights guaranteed in this Regulation and for them to adequately comply with the obligations set out in Article 8. The information referred to in points (a) to (g) of the first subparagraph of this paragraph shall be provided to the applicant at the latest when the application for international protection is registered. That information shall be provided by means of the leaflet referred to in paragraph 6a, provided physically or electronically, and if necessary orally. Information shall be provided to minors in a child-friendly manner and with the involvement of the representative.

The applicant shall be given the opportunity to confirm that he or she has received the information. Such confirmation shall be documented in the applicant's file. If the applicant refuses to confirm that he or she has received the information, a note of that fact shall be entered in his or her file.

3. During the administrative procedure, applicants shall be provided with the services of an interpreter for the purpose of registering and lodging an application and, where applicable, for the personal interview whenever appropriate communication cannot be otherwise ensured. The interpretation services shall be paid for from public funds.

4. The competent authorities shall provide applicants as soon as possible and before the deadline for lodging an application in accordance with Article 28(1), with the opportunity to communicate with the United Nations High Commissioner for Refugees or with any other organisation providing legal advice or other counselling to applicants in accordance with national law.

5. The determining authority shall ensure that, applicants and, where applicable, their representatives or legal advisers or other counsellors admitted or permitted as such under national law ("legal advisers") have access to the information referred to in Article 33(2)(b) and (ca) required for the examination of applications and to the information provided by the experts referred to in Article 33(3), where the determining authority has taken that information into consideration for the purpose of taking a decision on their application.

6. The determining authority shall give applicants notice in writing as soon as possible of the decision taken on their application. Where a representative or legal adviser is legally representing the applicant, the determining authority may give notice of the decision to him or her instead of to the applicant.

6a. The European Union Agency for Asylum shall, in close cooperation with the Commission and the Member State, draw up leaflets containing the necessary information in line with this Article. These leaflets shall be established in such a manner so as to enable Member States to complete it with additional information specific to the Member State concerned and shall take into account the specificities of vulnerable applicants such as minors or disabled persons.

*Article 8*

**Obligations of applicants**

1. The applicant shall make his or her application in the Member State provided for in [Article 9(1) and (2) of Regulation (EU) No XXX/XXX (AMMR Regulation)].

2. The applicant shall fully cooperate with the competent authorities in matters covered by this Regulation, in particular, by

(a) providing the data referred to in points (a),(b) and (bb) of Article 27(1);

(aa) providing an explanation where he or she is not in possession of an identity or travel document;

(ab) providing information on any changes as regards his or her place of residence, address, telephone number or email;

(b) providing biometric data as referred to in Regulation (EU) No XXX/XXX [(Eurodac Regulation)];

(c) lodging his or her application in accordance with Article 28 and remaining available throughout the procedure;

(d) hand over as soon as possible documents in his or her possession relevant to the examination of the application.

Where the competent authorities decide to retain any document, they shall ensure the applicants immediately receives copies of the originals. In case of a transfer pursuant to [Article X of Regulation (EU) No XXX/XXX (AMMR Regulation)], competent authorities shall hand back such documents to the applicant at the time of the transfer.

(da) attending the personal interview, without prejudice to Article 12;

(db) remaining on the territory of the Member State where he or she is required to be present, [in accordance with Article 9(4) of Regulation (EU) No XXX/XXX (AMMR Regulation)].

3. […]

4. The applicant shall accept any communication at the most recent place of residence or address, by telephone or by email as indicated by himself or herself to the competent authorities, in particular when he or she lodges an application in accordance with Article 28. Member States shall establish in national law the method of communication and the moment that the communication is considered as received by the applicant.

5. […]

6. The applicant shall comply with obligations to report to the competent authorities at a specified time or at reasonable intervals or to remain in a designated area on its territory in accordance with Directive XXX/XXX/EU (Reception Conditions Directive), as imposed by the Member State in which he or she is required to be present in accordance with Regulation (EU) No XXX/XXX (AMMR).

7. Without prejudice to any search carried out for security reasons, where it is necessary and duly justified for the examination of an application, the applicant may be required by the competent authorities to be searched or have his or her items searched in accordance with national law. The competent authority shall provide the applicant with the reasons for the search and include them in the applicant's file. Any search of the applicant's person under this Regulation shall be carried out by a person of the same sex with full respect for the principles of human dignity and of physical and psychological integrity.

*Article 9*

**Right to remain during the administrative procedure**

1. Applicants shall have the right to remain on the territory of the Member State where they are required to be present [in accordance with Article 9(4) of Regulation (EU) No XXX/XXX [AMMR Regulation]] until the determining authority has taken a decision on the application in the administrative procedure provided for in Chapter III.

2. The right to remain shall not constitute an entitlement to a residence permit and it shall not give the applicant the right to travel to the territory of other Member States without authorisation as referred to in Article 6 of Directive XXX/XXX/EU (Reception Conditions Directive).

2a. The applicant shall not have the right to remain on the territory of the Member States during the administrative procedure where the person is subject to a surrender to another Member State pursuant to obligations in accordance with a European arrest warrant.

3. Member States may provide for an exception from the applicant's right to remain on their territory during the administrative procedure where:

(a) a person makes a subsequent application in accordance with Article 42 and the conditions laid down in Article 43 are fulfilled;;

(b) […]

(ba) a person is or will be extradited, surrendered or transferred to another Member State, a third country, the international criminal court or another international court or tribunal for the purpose of, conducting a criminal prosecution or for the execution of a custodial sentence or a detention order;

(bb) a person is a danger to public order or national security, without prejudice to [Article 12 and 18 of the Regulation (EU) No XXX/XXX (Qualification Regulation)], provided that applying such an exception does not result in the applicant being removed to a third country in violation of the principle of non-refoulement.

4. A Member State may extradite, surrender or transfer an applicant to a third country, an international court or tribunal pursuant to paragraph 3 (ba) only where the competent authority considers that a decision will not result in direct or indirect refoulement in breach of the international and Union obligations of that Member State.

# Chapter IIa
# BASIC PRINCIPLES AND GUARANTEES

## SECTION II
### PERSONAL INTERVIEWS

*Article 10*

**Admissibility interview**

1. Without prejudice to Article 36(1) and Article 42(3), before a decision is taken by the determining authority on the inadmissibility of an application in accordance with Article 36, the applicant shall be given the opportunity of an admissibility interview.

2. In the admissibility interview, the applicant shall be given an opportunity to provide reasons as to why the inadmissibility grounds provided for in Article 36 would not be applicable to him or her.

*Article 11*

**Substantive interview**

1. Before a decision is taken by the determining authority on the merits of an application for international protection, the applicant shall be given the opportunity of a substantive interview on his or her application. The substantive interview may be conducted at the same time as the admissibility interview provided the applicant has been informed of such possibility in advance and able to consult with his or her legal adviser in accordance with Article 14 or a person entrusted with the provision of legal counselling in accordance with Article 15.

2. In the substantive interview, the applicant shall be given the opportunity to present the elements needed to substantiate his or her application in accordance with Regulation (EU) No XXX/XXX [(Qualification Regulation)], and he or she shall provide the elements referred to in Article 4(2) of Regulation (EU) No XXX/XXX (Qualification Regulation) as completely as possible. The applicant shall be given the opportunity to provide an explanation regarding elements which may be missing or any inconsistencies or contradictions in his or her statements.

*3.* […]

*Article 12*

**Requirements for personal interviews**

1. The applicant shall be given the opportunity of a personal interview on his or her application in accordance with the conditions established in this Regulation.

1a. Where an application for international protection is lodged in accordance with Article 30a the adult responsible shall be given the opportunity of a personal interview. The applicant shall also be given the opportunity to participate in that interview provided that paragraph (5)(b) is not applicable.

2. The personal interviews shall be conducted under conditions which ensure appropriate privacy and confidentiality and which allow applicants to present the grounds for their applications in a comprehensive manner.

2a. The presence of the applicant's legal adviser, where the applicant has decided to avail him of herself of legal assistance in accordance with Section III, Chapter II, shall be ensured.

***2b***. An interpreter who is able to ensure appropriate communication between the applicant and the person conducting the interview shall be provided for the personal interviews.

The presence of a cultural mediator may be provided during the personal interviews.

Member States shall give preference to interpreters and cultural mediators that have received training, such as training referred to in Article 8(4)(m) of Regulation (EU) No 2021/2303 (EU Asylum Agency Regulation).

Member States shall ensure that interpreters and cultural mediators are made aware of the key concepts and terminology relevant to the assessment of applications for international protection, for example through a standard leaflet or a guide. The communication shall take place in the language preferred by the applicant unless there is another language which he or she understands and in which he or she is able to communicate clearly.

3. Personal interviews shall be conducted by the personnel of the determining authority.

Where there is a disproportionate number of third-country nationals or stateless persons that make an application within the same period of time, making it unfeasible to conduct timely personal interviews of each applicant, the determining authority may be assisted temporarily by the personnel of other authorities of that Member State who shall receive in advance the relevant training which shall include the elements listed in [Article 8 of Regulation (EU) No 2021/2303 (EU Asylum Agency Regulation)] to conduct such interviews or by the European Union Agency for Asylum according to Article 5a.

3a. The person conducting the interview shall be competent to take account of the personal and general circumstances surrounding the application, including the situation prevailing in the applicant's country of origin, the applicant's cultural origin, age, sex or gender, gender identity, sexual orientation, vulnerability and special procedural needs. Personnel interviewing applicants shall also have acquired general knowledge of factors which could adversely affect the applicant's ability to be interviewed, such as indications that the person may have been tortured in the past or a victim of trafficking.

3b. The personnel interviewing applicants, including experts deployed by the European Union Agency for Asylum, shall have received training in advance which shall include relevant elements from those listed in Article 8(4) of Regulation (EU) No 2021/2303 (EU Asylum Agency Regulation).

3c. Where requested by the applicant and where possible, the determining authority shall ensure that the interviewers and interpreters are of the sex that the applicant prefers, unless it has reasons to consider that such a request does not relate to difficulties on the part of the applicant to present the grounds of his or her application in a comprehensive manner.

3d. A person who conducts a personal interview shall not wear a military or law enforcement uniform.

4. By way of derogation, the determining authority may hold the personal interview by video conference where duly justified by the circumstances.

In such case, the determining authority shall ensure the necessary arrangements for the appropriate facilities, procedural and technical standards, legal assistance and interpretation taking into account guidance from the EUAA.

5. The admissibility interview or the substantive interview, as applicable, may be omitted where the determining authority:

(a) is able to take a positive decision on the basis of the evidence available with regard to the refugee status or the subsidiary protection status provided that it offers the same rights and benefits as refugee status under Union and national law;

(aa) considers that the application is not inadmissible on the basis of evidence available;

(b) is of the opinion that the applicant is unfit or unable to be interviewed owing to enduring circumstances beyond his or her control;

(ba) in case of a subsequent application, the preliminary examination referred to in Article 42(3) is carried out on the basis of a written statement.

(c) the determining authority considers the application inadmissible pursuant to Article 36(1)(c).

The absence of a personal interview pursuant to point (b) shall not adversely affect the decision of the determining authority. In the absence of such an interview, the determining authority shall give the applicant an effective opportunity to submit further information in writing. When in doubt as to the condition of the applicant, the determining authority shall consult a medical professional to establish whether the applicant is temporarily unfit or unable to be interviewed or whether his or her situation is of an enduring nature. Where, following consultation of that medical professional, it is clear that the condition making the applicant unfit or unable to be interviewed is of a temporary nature, the determining authority shall postpone the personal interview until such time as the applicant is fit to be interviewed.

Where the applicant was unable to attend the personal interview owing to specific circumstances beyond his or her control, the determining authority shall reschedule the personal interview.

5a. Applicants shall be present at the personal interview and shall be required to respond in person to the questions asked.

5b. An applicant shall be allowed to be assisted by a legal adviser in the personal interview, including when it is held by video conference. The absence of the legal adviser shall not prevent the determining authority from conducting the interview. Where a legal adviser participates in the personal interview, Member States may stipulate in national law that the legal adviser may only intervene at the end of the personal interview.

6. Without prejudice to Articles 10(1) and 11(1) and provided that sufficient efforts have been made to ensure that the applicant has been afforded the opportunity of a personal interview, the absence of a personal interview shall not prevent the determining authority from taking a decision on the application for international protection.

7. […]

8. […]

[…]

9. […]

*Article 13*

**Report and recording of personal interviews**

1. The determining authority or any other authority or experts assisting it in accordance with Articles 5a and 12(3) with conducting the personal interview shall make a thorough and factual report containing all the main elements of the personal interview, or a transcript of the interview or a transcript of the recording of such an interview to be included in the applicant's file.

2. The personal interview shall be recorded using audio means of recording. The applicant shall be informed in advance of the fact that such a recording is being made and the purpose thereof. Particular attention shall be paid to the requirements of applicants in need of special procedural guarantees. The determining authority shall include the recording in the applicant's file..

3. The applicant shall be given the opportunity to make comments or provide clarification orally or in writing with regard to any incorrect translations or misunderstandings or other factual mistakes appearing in the report, the transcript of the interview or the transcript of the recording, at the end of the personal interview or within a specified time limit before the determining authority takes a decision. To that end, the applicant shall be informed of the entire content of the report, of the transcript of the interview or the transcript of the recording, with the assistance of an interpreter, where necessary.

4. The applicant shall be requested to confirm that the content of the report or the transcript of the interview correctly reflects the personal interview. Where he or she refuses to give his or her confirmation, the reasons for his or her refusal shall be entered in his or her file. That refusal shall not prevent the determining authority from taking a decision on the application. In case of doubt as to the statements made by the applicant during the personal interview, the audio recording shall prevail.

4a. The applicant does not have to be requested to make comments or to provide clarifications on the report or the transcript of the interview, nor to confirm that the content of the report or the transcript of the interview correctly reflects the interview where:

(a) according to national law the recording or a transcript thereof may be admitted as evidence in the appeal procedure, or

(b) it is clear to the determining authority that the applicant will be granted refugee status or subsidiary protection status provided that it offers the same rights and benefits as refugee status under Union and national law.

5. Applicants and, where they have been appointed, their representatives and their legal advisers shall have access to the written outcomes in accordance with paragraph 1 as soon as possible after the interview and in any case in due time before the determining authority takes a decision,

Access to the recording shall also be provided in the appeal procedure.

6. […]

7. […]

## SECTION III
## PROVISION OF LEGAL COUNSELLING, LEGAL ASSISTANCE AND REPRESENTATION

*Article 14*

**Right to legal counselling, legal assistance and representation**

1. Applicants shall have the right to consult, in an effective manner, a legal adviser or other counsellor on matters relating to their applications at all stages of the procedure.

2. Without prejudice to the applicant's right to choose his or her own legal adviser or other counsellor at his or her own cost, an applicant may request free legal counselling in the administrative stage of the procedure [provided for in Chapter III] in accordance with Article 15 and free legal assistance and representation in the appeals procedure [provided for in Chapter V] in accordance with Article 15a. The applicant shall be informed as soon as possible and at the latest when registering the application in accordance with Article 27 of his or her right to request free legal counselling or free legal assistance and representation.

2a. Member States may in addition provide for free legal assistance and representation in the administrative procedure in accordance with national law.

3. Member States may organise the provision of legal counselling, legal assistance, and representation in accordance with their national systems.

*Article 15*

**Free legal counselling in the *administrative* procedure**

1. Member States shall at the request of the applicant, provide free legal counselling in the administrative procedure provided for in Chapter III.

   For the purposes of the first subparagraph, effective access to free legal counselling may be assured by entrusting a person with the provision of legal counselling in the administrative stage of the procedure to several applicants at the same time.

2. For the purposes of the administrative procedure, the free legal counselling shall include the provision of:

   (a) guidance and explanations of the administrative procedure including information on rights and obligations during the procedure;;

   (b) assistance on the lodging of the application as well as guidance on the different procedures under which the application may be examined and the reasons for the application of those procedures, the rules related to admissibility, legal issues arising in the course of the procedure, including information on how to challenge a decision rejecting an application in accordance with Articles 53 to 55;

   (c) […]

3. Without prejudice to paragraph 1, the provision of free legal counselling in the administrative procedure may be excluded where:

   (a) the application is a first subsequent application considered to have been lodged merely in order to delay or frustrate the enforcement of a return decision which would result in the applicant's imminent removal from the Member State;

   (b) the application is a second or further subsequent application;

   (c) the applicant is already assisted and represented by a legal adviser.

4. For the purpose of implementing this Article, Member States may request the assistance of the European Union Agency for Asylum. In addition, financial support may be provided through Union funds to the Member States, in accordance with the legislation governing such funding.

5. [...]

(a) [...]

(b) [...]

(c) [...]

[...]

*Article 15a*

**Free legal assistance and representation in the appeal procedure**

1. In the appeal procedure, Member States shall, upon the request of the applicant, ensure that he or she is provided with free legal assistance and representation which shall include the preparation of the procedural documents required under national law, the preparation of the appeal and, in the event of a hearing, participation in that hearing before a court or tribunal.

2. The provision of free legal assistance and representation in the appeal procedure may be excluded by the Member States where:

   (a) the applicant, who shall disclose his or her financial situation, is considered to have sufficient resources to afford legal assistance and representation at his or her own cost;

   (b) it is considered that the appeal has no tangible prospect of success or is abusive;

   (c) the appeal or review is at a second level of appeal or higher as provided for under national law, including re-hearings or reviews of appeal.

   (d) the applicant is already assisted or represented by a legal adviser.

3. Where a decision not to grant free legal assistance and representation is taken by an authority which is not a court or tribunal on ground that the appeal is considered as having no tangible prospect of success or as being abusive, the applicant shall have the right to an effective remedy before a court or tribunal against that decision, and for that purpose he or she shall be entitled to request free legal assistance and representation.

*Article 16*

**Scope of legal counselling, assistance and representation**

1. A legal adviser or other counsellor, admitted or permitted as such under national law, who offers legal counselling, assists or represents an applicant under the terms of national law, shall be granted access to the information in the applicant's file upon the basis of which a decision is or shall be taken.

2. Access to the information or to the sources in the applicant's file may be denied in accordance with national law where the disclosure of information or sources would jeopardise national security, the security of the organisations or persons providing the information or the security of the persons to whom the information relates or where the investigative interests relating to the examination of applications for international protection by the competent authorities of the Member States or the international relations of the Member States would be compromised or where the information or sources are classified under national law. In those cases, the determining authority shall:

   (a) make access to such information or sources available to the courts or tribunals in the appeal procedure; and

   (b) ensure that the applicant's right of defence is respected.

   As regards point (b), Member States shall grant access to information or sources to a legal adviser or other counsellor who has undergone a security check, insofar as the information is relevant for examining the application or for taking a decision to withdraw international protection.

3. The legal adviser or other counsellor who counsels, assists or represents an applicant shall have access to closed areas, such as detention facilities and transit zones, for the purpose of counselling, assisting or representing that applicant, in accordance with [Directive XXX/XXX/EU (Reception Conditions Directive).]

4. […]

5. […]

6. […]

*Article 17*

**Conditions for the provision of free legal counselling, assistance and representation**

1. Free legal counselling, assistance and representation shall be provided by legal advisers or other counsellors, permitted under national law to counsel, assist or represent the applicants or non-governmental organisations accredited under national law to provide legal services or representation to applicants.

2. Member States shall lay down specific procedural rules concerning the modalities for filing and processing requests for the provision of free legal counselling, assistance and representation in relation to applications for international protection or they shall apply the existing rules for domestic claims of a similar nature, provided that those rules are not more restrictive or do not render access to free legal assistance and representation impossible or excessively difficult.

2a. Member States shall lay down specific rules concerning the exclusion of the provision of free information on legal and procedural aspects and of free legal counselling, assistance and representation in accordance with Article 15(3) and Article 15a(2), respectively.

3. Member States may also impose monetary limits or time limits on the provision of free legal counselling, assistance and representation, provided that such limits are not arbitrary and do not unduly restrict access to free legal counselling, assistance and representation. As regards fees and other costs, the treatment of applicants shall not be less favourable than the treatment generally given to their nationals in matters pertaining to legal assistance.

4. Member States may request from the applicant the total or partial reimbursement of the costs incurred in relation to the provision of legal counselling, assistance and representation where the applicant's financial situation considerably improves in the course of the procedure or where the decision to provide free legal counselling, assistance and representation was taken on the basis of false information supplied by the applicant. For that purpose, applicants shall immediately inform the competent authorities of any significant change in their financial situation.

*Article 18 (new Article 5b)*

**The role of the United Nations High Commissioner for Refugees**

1. [...]

   (a) [...]

   (b) [...]

   (c) [...]

2. [...]

# Chapter II
# BASIC PRINCIPLES AND GUARANTEES

## SECTION IV
### SPECIAL GUARANTEES

*Article **19**[former Art.20]*

**[…]Assessment of special procedural needs**

-1. The competent authorities shall individually assess whether an applicant is in need of special procedural guarantees. That assessment may be integrated into existing national procedures or into the assessment referred to in Article 21 of Directive XXX/XXX/EU (Reception Conditions Directive), need not take the form of an administrative procedure, and, if required by national law, may be made available subject to the applicant´s consent, which shall include the transmission of the results to the determining authority. That assessment shall be carried out with the assistance of an interpreter, where needed.

1. The assessment referred to in paragraph -1 shall be initiated as early as possible after an application is made by identifying whether an applicant presents first indications that he or she may require special procedural guarantees. The identification shall be based on visible signs, the applicant's statements or behaviour, or any relevant documents. In the case of minors, statements of the parents, adult responsible or representative of the applicant shall also be taken into account.

   The competent authorities shall, when registering the application, include information on any such first indications in the applicant's file and they shall make this information available to the determining authority.

2. [...]

3. The assessment referred to in paragraph -1 shall be continued after the application is lodged, taking into account any information in the applicant's file as referred to in paragraph 1.

The assessment shall be concluded as soon as possible and in any case within 30 days. It shall be reviewed in case of any relevant changes in the applicant's circumstances or where the needs become apparent after the assessment has been completed.

3a. The competent authority may, refer the applicant, subject to his or her prior consent that shall include also transmission of the results, to the appropriate medical practitioner or psychologist or to another professional for advice on the applicant's need for special procedural guarantees, prioritising cases where there are indications that applicants may have been victim of torture, rape or of another serious form of psychological, physical, sexual or gender-based violence and that this could adversely affect their ability to participate effectively in the procedure.

The result shall be taken into account by the determining authority when deciding on the type of special procedural guarantees which may be provided to the applicant.

Where applicable and without prejudice to the medical examination, this assessment may be integrated with the medical assessments referred to in Article 23 and Article 24.

4. [...]

4a. The relevant personnel of the competent authorities as well as the doctor or psychologist assessing the need for special procedural guarantees shall receive training to enable them to detect signs of vulnerability of an applicant who may need special procedural guarantees and address those needs when identified.

*Article 20[former Article 19]*

**Applicants in need of special procedural guarantees**

1. Where applicants have been identified as being in need of special procedural guarantees, they shall be provided with the necessary support allowing them to benefit from the rights and comply with the obligations under this Regulation throughout the duration of the procedure for international protection.

2. Where the determining authority, including on the basis of the assessment of another relevant national authority, considers that the necessary support cannot be provided within the framework of the accelerated examination procedure referred to in Article 40 or the border procedure referred to in Article 41 paying particular attention to victims of torture, rape or other serious forms of psychological, physical, sexual violence or gender-based violence, the determining authority shall not apply, or shall cease to apply those procedures to the applicant.

*Article 21*

**Guarantees for minors**

1. The best interests of the child shall be a primary consideration for the competent authorities when applying this Regulation.

1a. The determining authority shall assess the best interest of the child in accordance with [Article 22 of Directive XXX/XXX/EU (Reception Conditions Directive)].

2. The determining authority shall provide a minor the opportunity of a personal interview, including where an application is made on his or her own behalf in accordance with Article 31(6) and Article 32(1), unless this is not in the best interests of the child. In that case, the determining authority shall give reasons for the decision not to provide a minor with the opportunity of a personal interview.

The personal interview of a minor shall be conducted by a person who has the necessary knowledge of the rights and special needs of minors. It shall be conducted in a child-sensitive and context-appropriate manner, taking into consideration the age and maturity of the child.

2a. Where a minor is accompanied, the personal interview shall be conducted in the presence of an adult responsible and, where one has been appointed, with a legal adviser. Member States may, where necessary, and when it is in the best interests of the child, conduct the personal interview with this minor also in the presence of a person with necessary skills and expertise. On justified grounds and only if it is in the best interests of the child, the determining authority may interview the minor without the presence of an adult responsible, provided that it ensures that the minor is assisted during the interview by a person with necessary skills and expertise in order to safeguard his or her best interests.

3. The decision on the application of a minor shall be prepared by the relevant personnel of the determining authority who shall have the necessary knowledge and have received the appropriate training on the rights and special needs of minors.

*Article 22*

**Special guarantees for unaccompanied minors**

-1. The competent authorities shall ensure that unaccompanied minors are represented and assisted in such a way so as to enable them to benefit from the rights and comply with the obligations under this Regulation, [Regulation (EU) No XXXX/XXXX [AMMR Regulation]], Directive (EU) No XXXX/XXXX [RCD] and Regulation (EU) No XXXX/XXXX [Eurodac Regulation].

1. Where an application is made by a person who claims to be a minor, or in relation to whom there are objective grounds to believe that he or she is a minor, and who is unaccompanied, the competent authorities shall designate:

(a) as soon as possible and in any case in a timely manner for the purposes in point d, a person with the necessary skills and expertise to provisionally assist the minor in order to safeguard his or her best interest and general well-being which enables the minor to benefit from the rights under this Regulation and, if applicable, act as a representative until a representative has been designated;

(b) a representative as soon as possible but not later than fifteen working days from when the application is made, or as soon as possible.

The representative and the person referred to in point (a) may be the same as that provided for in [Article 23 of Directive (EU) No XXXX /XXXX Reception Conditions Directive]. He or she shall meet with the unaccompanied minor and take into account the minor's own views about his or her needs in accordance with the age and maturity of the minor.

Where the competent authority has concluded that an applicant who claims to be a minor is without any doubt above the age of eighteen years, it need not designate a representative in accordance with this paragraph.

The duties of the representative or the person referred to in paragraph 1(a) shall cease where the competent authorities, following the age assessment referred to in Article 24(1), do not assume that the applicant is a minor or consider that the applicant is not a minor or where the applicant is no longer an unaccompanied minor.

1aa. In case of a disproportionate number of applications made by unaccompanied minors or in other exceptional situations, the time limit for designating a representative as referred to paragraph 1(b) may be extended by ten working days, without prejudice to paragraph 1, third sub-paragraph.

1a. Where an organisation is designated under paragraph 1, it shall designate a natural person for carrying out these tasks in respect of the unaccompanied minor.

1b. […]

1c. The competent authority shall immediately:

(a) inform the unaccompanied minor, in a child-friendly manner and in a language he or she can understand, of the designation of the person referred to in paragraph 1(a) and of his or her representative and about how to lodge a complaint against the person referred to in paragraph 1, point (a) or (b) in confidence and safety.

(b) inform the determining authority and the competent authority for registering the application, where applicable, that a representative has been designated for the unaccompanied minor; and

(c) inform the person referred to in paragraph 1(a) and the representative of the relevant facts, procedural steps and time-limits pertaining to the application of the unaccompanied minor.

The representative and the person referred to in paragraph 1(a) shall have access to the content of the relevant documents in the minor's file including the specific information material for unaccompanied minors.

1d. The person referred to in paragraph 1(a) shall meet with the unaccompanied minor and carry out, inter alia, the following tasks, where appropriate together with the legal adviser:

(a) provide him or her with relevant information in relation to the procedures provided for in this Regulation;

(b) where applicable, assist him or her in relation to the age assessment procedure referred to in Article 24;

(c) where applicable, provide him or her with the relevant information and assist him or her in relation to the procedures provided for in [Regulation (EU) No XXXX/XXXX [AMMR Regulation]] and Regulation (EU) No XXXX/XXXX [Eurodac Regulation].

1da. As long as a representative has not been designated, Member States may authorise the person referred to in paragraph 1(a) to assist the minor with the registration and lodging of the application or lodge the application on behalf of the applicant in accordance with Article 32.

1e. The representative shall meet the unaccompanied minor and shall carry out, inter alia, the following tasks, where appropriate, together with the legal adviser:

(a) where applicable, provide him or her with relevant information in relation to the procedures provided for in this Regulation;

(b) where applicable, assist with the age assessment procedure referred to in Article 24;

(ba) where applicable, assist with the registration of the application;

(c) where applicable, assist with the lodging of the application or lodge the application on his or her behalf in accordance with Article 32;

(d) where applicable, assist with the preparation of and be present for the personal interview and inform about the purpose and possible consequences of the personal interview and about how to prepare for that interview;

(e) where applicable, provide him or her with the relevant information and assist him or her in relation to the procedures provided for in [Regulation (EU) No XXXX/XXXX [AMMR Regulation] and Regulation (EU) No XXXX/XXXX [Eurodac Regulation].

In the personal interview, the representative and the legal adviser shall have an opportunity to ask questions or make comments within the framework set by the person conducting the interview.

The determining authority may require the presence of the unaccompanied minor at the personal interview, even if the representative or legal adviser is present.

2. […]

3. […]

(a) […]

(b) […]

4. The representative shall perform his or her duties in accordance with the principle of the best interests of the child and shall have the necessary qualifications, training, expertise. Representatives shall receive regular training for the undertaking of their tasks and shall not have a criminal record, in particular as regards any child-related crimes or offences.

The representative shall be changed only when the competent authorities consider that the tasks of that representative or person have not been performed adequately. Organisations or natural persons whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be designated as representative.

4. The competent authorities shall place a natural person acting as representative or a person suitable to provisionally act as a representative in charge of a proportionate and limited number of unaccompanied minors, and under normal circumstances, of no more than 30 unaccompanied minors at the same time, in order to ensure that he or she is able to perform his or her tasks effectively.
In case of a disproportionate number of applications made by unaccompanied minors or in other exceptional situations, the number of unaccompanied minors per representative may be increased, up to a maximum of fifty unaccompanied minors in line with [Article 23(1) of Directive (EU) No XXXX /XXXX Reception Conditions Directive].

Member States shall ensure that there are administrative or judicial authorities or other entities responsible to supervise, on a regular basis, that the person designated under paragraph 1(a) and the representative properly performs his or her tasks, including by reviewing the criminal records of designated representatives at certain intervals in order to identify potential incompatibilities with their role. Those administrative or judicial authorities or other entities shall review complaints lodged by an unaccompanied minor against the person designated under paragraph 1(a) and his or her representative.

6. […]

# SECTION V

## MEDICAL EXAMINATION AND AGE ASSESSMENT

*Article 23*

### Medical examination

1. Where the determining authority deems it relevant for the examination of an application for international protection in accordance with Regulation (EU) No XXX/XXX (Qualification Regulation), it shall, subject to the applicant's consent, request a medical examination of the applicant concerning signs and symptoms that might indicate past persecution or serious harm and be informed of results thereof.

2. In the case of a minor, the medical examination shall only be carried out where the parent, the adult responsible, the representative or the person referred to in Article 22(1)(a) and, where provided for by national law, the applicant, consent.

   The medical examination shall be free of charge for the applicant and be paid for from public funds.

   Where applicable, the health and vulnerability checks referred to in [Article 9 of the Screening Regulation (XXX) may be taken into account for the medical examination in the present Article.]

3. When no medical examination is carried out in accordance with paragraph 1, the determining authority shall inform applicants that they may, on their own initiative and at their own cost, arrange for a medical examination concerning signs and symptoms that might indicate past persecution or serious harm.

4. The results of the medical examination shall be submitted to the determining authority and to the applicant as soon as possible and shall be assessed by the determining authority along with the other elements of the application.

4a. The medical examination shall be the least invasive possible and be performed only by qualified medical professionals, and in a way that respects the individual's dignity.

5. An applicant's refusal to undergo a medical examination or his or her decision to undergo a medical examination on his or her own initiative, when such an examination does not take place within a suitable time-frame taking into account the availability of appointments for medical examinations in the Member State responsible shall not prevent the determining authority from taking a decision on the application for international protection.

*Article 24*

**Age assessment of minors**

***-1.*** Where, following statements by the applicant, with available documentary evidence or other relevant indications, there are doubts as to whether or not an applicant is under the age of 18, the determining authorities may undertake a multi-disciplinary assessment, including a psychosocial assessment, which shall be carried out by qualified professionals, to determine the applicant's age within the framework of the examination of an application. The assessment of the age shall not be based solely on the applicant's physical appearance or behaviour. Documents that are available shall be considered genuine unless there is evidence to the contrary, and statements by minors shall be taken into consideration.

1. Where there are still doubts as to the age of an applicant following the assessment referred to in paragraph -1, medical examinations may be used as a measure of last resort to determine his or her age within the framework of the examination of an application. Where the result of the age assessment referred to in this paragraph is not conclusive, or includes an age-range below 18 years, Member States shall assume that the applicant is a minor.

2. […]

3. Any medical examination shall be the least invasive possible and be performed with full respect for the individual's dignity. It shall be carried out by medical professionals with experience and expertise in age estimation.

   Where this paragraph applies, the results from the medical examination and the multi-disciplinary assessment in paragraph -1 shall be analysed together, thereby allowing for the most reliable result possible.

4. Where medical examinations are used to assess the age of an applicant, the competent authority shall ensure that applicants, their parents, adult responsible, their representatives or the person referred to in Article 22(1)(a) are informed, prior to the examination of their application for international protection, and in a language that they understand and in an age appropriate manner, of the possibility that their age might be assessed by medical examination. This shall include information on the method of examination and possible consequences which the result of the medical examination may have for the examination of the application, as well as on the possibility and consequences of a refusal on their part to undergo the medical examination. All documents relating to the medical examination shall be included in the applicant's file.

4a. A medical examination to assess the age of an applicant shall only be carried out where the applicants, their parents, adult responsible, their representative or the person referred to in Article 22(1)(a), consent after having received the information provided for in paragraph 4.

5. The refusal by the applicants, their parents, adult responsible, their[representative or person referred to in Article 22(1)(a) of a medical examination to be carried out for the assessment of the applicant's age shall not prevent the determining authority from taking a decision on the application for international protection. Such refusal may only be considered as a rebuttable presumption that the applicant is not a minor.

6. A Member State may recognise age assessment decisions taken by other Member States where the assessments are carried out in compliance with Union law.

# CHAPTER III
# ADMINISTRATIVE PROCEDURE

## SECTION I
### ACCESS TO THE PROCEDURE

*Article 25*

**Making an application for international protection**

1. An application for international protection shall be considered as made when a third- country national or stateless person, including an unaccompanied minor, expresses in person to a competent authority as referred to in Article 5[(3aa)] a wish to receive international protection from a Member State.

   Where officials from the competent authority have doubt as to whether a certain declaration is to be construed as an application for international protection, they shall ask the person expressly whether he or she wishes to receive international protection.

1a. The authorities responsible for the reception facilities in accordance with the Directive XXX/XXX/EU [(Reception Conditions Directive)] shall, where relevant, be informed that an application has been made. For third-country nationals subject to the screening referred to in [Article 3(1) of Regulation (EU) XXX/XXX [Screening Regulation]], Member States may choose to apply this paragraph after the screening has ended.

2. Where a third-country national or stateless person makes an application for international protection, he or she shall be considered as an applicant for international protection until a final decision is taken on that application.

*Article 26*

1. […]

   (a)

   (b)

   (c)

   (d)

2. […]

3. [...]

*Article 27*

**Registering applications for international protection**

1. Without prejudice to the obligations to collect and transmit data in accordance with [Article 10(1) Regulation (EU) No XXX/XXX (Eurodac Regulation)], the authorities competent for registering applications or experts deployed by the European Union Asylum Agency assisting them with that task shall register an application promptly, and not later than 5 days from when it is made. For that purpose they shall register the following information which may come from the screening form referred to in [Article 13 of the Regulation (EU) No XXX/XXX (Screening Regulation)]:

   (a) the name, date and place of birth, gender, nationalities or statelessness, family members as defined in [Article 2(g) of Regulation No (EU) XXX/XXX (AMMR Regulation), and in the case of minors, siblings or relatives as defined in Article 2(h) of Regulation No (EU) XXX/XXX (AMMR Regulation)] present in a Member State, where applicable, as well as other personal details of the applicant relevant for the procedure for international protection and for the determination of the Member State responsible;

(b) where available, the type, number and period of validity of any identity or travel document of the applicant and the country that issued that document, as well as other documents provided by the applicant which the competent authority deems relevant for his or her identification and for the procedure for international protection and for the determination of the Member State responsible~~,~~

(ba) the date of the application, place where the application was made and the authority to which the application was made;

(bb) the applicant's location or the applicant's place of residence or address and where available a telephone number and an e-mail address where he or she may be reached.

(c) […]

Where the data referred to in points (a) and (b) has already been obtained by the Member States before the application is made, it shall not to be requested again.

1a. Where an individual claims not to have a nationality, that fact shall be clearly registered pending the determination of whether the individual is stateless.

1b. Where an application is made to an authority entrusted with the task of receiving applications for international protection which is not responsible for registering applications, that authority shall promptly and at the latest within three working days from when the application was made inform the authority competent for registering applications, and the application shall be registered by the competent authority as soon as possible and at the latest within five days from when the information is received by the authority responsible for registering applications.

2. Where the information is collected by the determining authority or by another authority assisting it for the purpose of examining the application, additional data necessary for the examination of the application may also be collected at the time of registration.

3. Where there is a disproportionate number of third-country nationals or stateless persons that make an application within the same period of time, making it unfeasible to register applications within the deadlines provided for in paragraphs 1 and 1b, the application shall be registered at the latest within 15 days.

4. Without prejudice to the right of the applicant to present new elements in support of the application, in the case of a subsequent application, where the information referred to in paragraphs 1 (a), (b), (bb) and 1a is already available to the competent authority, it may not have to collect such data.

5. For third-country nationals subject to the screening referred to in Article 3(1) of Regulation (EU) No XXX/XXX [Screening Regulation], paragraphs 1 to 4 shall apply only after the screening has ended.

6. […]

*Article 28*

**Lodging of an application for international protection**

1. The applicant shall lodge the application with the competent authority of the Member State where the application is made as soon as possible and no later than twenty one days from when the application is registered, unless paragraph 6a of this Article applies, provided that he or she is given an effective opportunity to do so in accordance with this Article. Where the application is not lodged with the determining authority, the competent authority shall promptly inform the determining authority that an application has been lodged.

1a. Following a transfer in accordance with [Article 26(1)(a) of AMMR Regulation], the applicant shall lodge the application with the competent authorities of the Member State responsible as soon as possible and no later than twenty-one days from when the applicant identifies himself or herself to the competent authorities of the Member State responsible.

1b. The application shall be lodged in person at a designated time or date and place which shall be communicated to the applicant by the competent authorities.

Member States may provide in national law that an application is deemed to be lodged in person when the competent authority verifies that the applicant is physically present on the territory of the Member State at the time of registration or lodging of an application.

Alternatively, Member States may provide in national law for the possibility for the applicant to lodge an application by means of a form, including where he or she is unable to appear in person owing to enduring serious circumstances beyond his or her control, such as imprisonment or long-term hospitalisation. The application shall be considered to have been lodged provided that the applicant submits the form within the time-limit set out in paragraph 1 and provided that the competent authority concludes that the conditions under this paragraph have been met. In such cases, the time-limit for the examination of the application shall start to run from the date on which the competent authority receives the form.

2. […]

3. For the purposes of the first paragraph of paragraph 1b, where there is a disproportionate number of third-country nationals or stateless persons that make an application for international protection within the same period of time, making it unfeasible to give the applicant an appointment within that time-limit the applicant shall be given an appointment to lodge his or her application at a date not later than two months from when the application is registered.

4. When lodging an application, applicants are required to submit as soon as possible all the elements and documents at their disposal referred to in Article 4(2) of Regulation (EU) No XXX/XXX [(Qualification Regulation)] needed for substantiating their application. After the lodging of their application, in particular at their personal interview, applicants shall be allowed to submit any additional elements relevant for its examination, until a decision under the administrative procedure is taken. Member States may set a deadline within that timeframe for submitting those additional elements with which the applicant shall endeavour to comply.

[…]

5. […]

6. […]

6a. Member States may organise the access to the procedure in such a way that making, registering or lodging take place at the same time. In such cases, Member States shall ensure that all applicants enjoy the guarantees provided in paragraphs 2 to 6 of Article 7. Where making, registering or lodging take place at the same time, applicants shall be allowed to submit all the elements and documents at their disposal referred to in Article 4(2) of Regulation (EU) No XXX/XXX [(Qualification Regulation)] needed for substantiating their application during their personal interview.

In addition, applicants shall be allowed to submit any additional elements relevant for its examination, until a decision under the administrative procedure is taken. Member States may set a deadline within that timeframe for submitting those additional elements with which the applicant shall endeavour to comply.

*Article 29*

**Documents for the applicant**

1. The competent authorities of the Member State where an application for international protection is made shall, upon registration, provide the applicant with a document in his or her own name indicating that an application has been made and registered which shall be valid until the document referred to in paragraph 2 is issued.

   Following a transfer in accordance with [Article 26(1)(a) of AMMR Regulation], the competent authorities of the Member state responsible shall, when the applicant identifies himself or herself to them, provide the applicant with a document in his or her name indicating that an application has been made and registered and that the person has been transferred. That document shall remain valid until the document referred to in paragraph 2 is issued.

1a. The document referred to in paragraph 1 does not have to be provided if it is already possible to issue the document referred to in paragraph 2 by the time of registration.

1b. The document referred to in paragraph 1 shall be withdrawn when the document referred to in paragraph 2 is issued.

2. The competent authorities of the Member State where the application is lodged in accordance with Article 28(1) and (1a) shall, as soon as possible after the lodging of the application, issue a document which shall include at least the following details, to be updated as necessary:

   (a) the name, date and place of birth, gender, nationalities or statelessness, facial image of the applicant and signature;

   (b) the issuing authority, date and place of issue and period of validity of the document;

   (c) the status of the individual as an applicant;

(d) stating that the applicant has the right to remain on the territory of that Member State for the purpose of having his or her application examined and indicating whether the applicant is free to move within all or part of the territory of that Member State;

(e) stating that the document is not a travel document and that the applicant is not allowed to travel without authorisation to other Member States.

(f) […]

2a. It shall not be necessary to issue the documents referred to in this Article when and for as long as the applicant is in detention or imprisonment.

Upon release from detention or imprisonment, the applicant shall be provided with the document referred to in paragraphs 1 or 2. Where the applicant is provided with the document referred to in paragraph 1 upon release, he or she shall receive as soon as possible the document referred to in paragraph 2.

2b. In the case of accompanied minors, the documents referred to in this Article issued to one of the parents or adult responsible may also cover the minor, if appropriate.

2c. The documents referred to in this Article need not be proof of identity but shall be considered as being sufficient means for applicants to identify themselves in relation to national authorities and to access their rights for the duration of the procedure for international protection.

3. The document shall state the date of registration of the applicant.

4. The document referred to in paragraph 2 shall be valid for up to twelve months [or until the applicant is transferred to another Member State in accordance with Regulation (EU) XXX/XXX [AMMR Regulation]]. Where the document is issued by the Member State responsible the validity shall be renewed so as to cover the period during which the applicant has a right to remain on its territory. The period of validity of the document does not constitute a right to remain where that right was terminated or suspended in accordance with this Regulation.

5. […]

*Article 30*

**Access to the procedure in detention facilities and at border crossing points**

1. Where there are indications that third-country nationals or stateless persons held in detention facilities or present at border crossing points, including transit zones, at external borders, may wish to make an application for international protection, the competent authorities shall provide them with information on the possibility to do so.

   (a) […]

   (b) […]

   (c) […]

2. Where an applicant makes an application in detention facilities, in prison or at border crossing points, including transit zones, at external borders, the competent authorities shall make arrangements for interpretation services to the extent necessary to facilitate access to the procedure for international protection.

3. Organisations and persons permitted under national law to provide advice and counselling shall have effective access to applicants held in detention facilities or present at border crossing points, including transit zones, at external borders. Such access may be subject to a prior agreement with the competent authorities.

   Member States may impose limits to such access, by virtue of national law, where they are objectively necessary for the security, public order or administrative management of a border crossing point, including transit zones, or of a detention facility, provided that access is not severely restricted or rendered impossible.

*Article 30a*

**Applications on behalf of an adult requiring assistance to exercise legal capacity**

***1.*** In the case of an adult requiring assistance to exercise legal capacity in accordance with national law ('dependent adult'), an adult responsible for him or her whether by law or by practice of the Member State concerned ('adult responsible') may make and lodge an application on the behalf of the dependent adult.

2. The dependent adult shall be present for the lodging of the application, except where there are justified reasons for which he or she is unable or unfit to be present or, where such possibility is provided for in national law, the application is lodged by means of a form.

*Article 31*

**Applications on behalf of an accompanied minor**

1. An accompanied minor shall have the right to lodge an application in his or her own name if he or she has the legal capacity according to the national law of the Member State concerned. Where the accompanied minor does not have the legal capacity according to the national law of the Member State concerned, a parent or another adult, such as a legal caregiver or child protection services, responsible for the minor, whether by law or by practice of the Member State concerned, shall lodge the application on his or her behalf.

2. In the case of an accompanied minor, who does not have legal capacity according to the national law of the Member State concerned and who is present at the moment of making or lodging of the application for international protection by the parent on the territory of the same Member State in relation to the application for international protection, in particular if such minor does not have any other legal means of staying, the making and lodging of an application by a parent or another adult responsible for him or her shall be considered to be the making and lodging of an application for international protection on behalf of the minor. Member States may decide to apply this paragraph also in case of an accompanied minor who is born or who is present during the administrative procedure.

3. Where the parent or adult responsible for the accompanied minor lodges the application on behalf of the minor, the minor shall be present for the lodging of the application, except where there are justified reasons for which the minor is unable or unfit to be present or, where such possibility is provided for in national law, the application on behalf of the minor is lodged by means of a form.

4. […]

5. […]

6. […]

7. […]

8. […]

9. […]

10. […]

*Article 32*

**Applications of unaccompanied minors**

1. An unaccompanied minor shall have the right to lodge an application in his or her own name if he or she has the legal capacity according to the national law of the Member State concerned. To that effect, they shall be informed of the age of legal capacity in the Member State responsible for examining their application for international protection. Where the unaccompanied minor does not have the legal capacity according to the national law of the Member State concerned a representative or a person as referred to in Article 22(1)(a) shall lodge the application on his or her behalf.

   These provisions shall apply without prejudice to unaccompanied minors' right to legal counselling and to legal assistance and representation in accordance with Articles 14 and 15.

2. In the case of an unaccompanied minor, who does not have legal capacity according to the national law of the Member State concerned the application shall be lodged within the time limit set out in Article 28(1) taking into account the best interests of the child.

2a. Where the representative of an unaccompanied minor or a person as referred to in Article 22(1)(a) lodges the application on behalf of the minor, the minor shall be present for the lodging of the application, except where there are justified reasons for which the minor is unable or unfit to be present or, where such possibility is provided for in national law, the application is lodged by means of a form.

3. […]

# SECTION II

## EXAMINATION PROCEDURE

*Article 33*

### Examination of applications

1. The determining authority shall examine and take decisions on applications for international protection in accordance with the basic principles and guarantees set out in Chapter II.

2. The determining authority shall take decisions on applications for international protection after an appropriate examination as to the admissibility or merits of an application. The determining authority shall examine applications objectively, impartially and on an individual basis. For the purpose of examining an application, the determining authority shall take the following into account:

   (a) the relevant statements and documentation presented by the applicant in accordance with [Article 4(1) and (2) of Regulation No. XXX/XXX Qualification Regulation];

   (b) relevant, precise and up-to-date information relating to the situation prevailing in the country of origin of the applicant at the time of taking a decision on the application, including laws and regulations of the country of origin and the manner in which they are applied, obtained from relevant and available national, Union and international sources, including children's rights organisations and where available the common analysis on the situation in specific countries of origin and the guidance notes referred to in Article 11 of Regulation (EU) 2021/2303 EU Asylum Agency Regulation;

   (c) […]

(ca) if applying the concepts of first country of asylum or safe third country, relevant, precise and up-to-date information relating to the situation prevailing in the third country being considered as a first country of asylum or a safe third country at the time of taking a decision on the application, including information and analysis on safe third countries referred to in Article 12 of Regulation (EU) 2021/2303 EU Asylum Agency Regulation;

(d) the individual position and personal circumstances of the applicant, including factors such as background, age, gender, gender identity and sexual orientation so as to assess whether, on the basis of the applicant's personal circumstances, the acts to which the applicant has been or could be exposed would amount to persecution or serious harm;

(e) whether the activities that the applicant was engaged in since leaving the country of origin were carried out by the applicant for the sole or main purpose of creating the necessary conditions for applying for international protection, so as to assess whether those activities would expose the applicant to persecution or serious harm if returned to that country as referred to in [Article 5 of Regulation No XXX/XXX Qualification Regulation];

(f) whether the applicant could reasonably be expected to avail himself or herself of the protection of another country where he or she could assert citizenship;

(fa) provided that the State or agents of the State are not the actors of persecution or serious harm, whether the internal protection alternative as referred to in [Article 8 of Regulation No XXX/XXX Qualification Regulation] applies.

3. The personnel examining applications and taking decisions shall have the appropriate knowledge and shall have received training, including the relevant training under Article 8 of Regulation (EU) XXX/ XXX (EU Asylum Agency Regulation), in the relevant standards applicable in the field of asylum and refugee law. They shall have the possibility to seek advice, whenever necessary, from experts on particular issues, such as medical, cultural, religious, mental health, and child-related or gender issues. Where necessary, they may submit queries to the European Union Agency for Asylum in accordance with Article 10(2)(b) of Regulation (EU) 2021/2303 (EU Asylum Agency Regulation).

4. Documents assessed by the determining authority as relevant for the examination of applications shall be translated, where necessary, for such examination.

   The translation of those relevant documents or parts thereof may be provided by other entities and paid for from public funds in accordance with national law. The applicant may, at his or her own cost, ensure the translation of other documents. In case of subsequent applications, the applicant may be made responsible for the translation of documents.

5. The determining authority may prioritise the examination of an application for international protection in particular, where:

   (a) the application is likely to be well-founded;

   (b) the applicant has special reception needs within the meaning of [Article 20 of Directive XXX/XXX/EU (Reception Conditions Directive)], or is in need of special procedural guarantees as referred to in Articles 19 to 22 of this Regulation, in particular where he or she is an unaccompanied minor;

   (c) there are reasonable grounds to consider the applicant as a danger to the national security or public order of the Member State;

   (d) the application is a subsequent application;

   (e) the applicant has been subject to a decision in accordance with [Article 19(2)(e)] [recast Reception Conditions Directive] and/or has been involved in causing public nuisance or engaged in criminal behaviour.

*Article 34*

**Duration of the examination procedure**

1. The examination to determine whether an application is inadmissible in accordance with Article 36, (1),(a), (b), (c) and (f), and Article 36, (1aa) shall be concluded as soon as possible and not later than two months from the lodging of an application. In the case referred to in Article 36[…] (1)(g), the determining authority shall conclude the examination within ten working days.

   […]

   The application shall not be deemed to be admissible solely by reason of the fact that no decision on inadmissibility is taken within the time-limits set out in this paragraph and in paragraph 1b.

1a. The determining authority shall conclude the accelerated examination procedure as soon as possible and not later than three months from the lodging of the application.

1b. The determining authority may extend the time-limits provided for in the first paragraph of paragraph 1 by not more than two months where:

   (a) a disproportionate number of third-country nationals or stateless persons make an application for international protection within the same period of time, making it unfeasible to conclude the admissibility procedure or the accelerated examination procedure within the set time-limits;

   (b) complex issues of fact or law are involved;

   (c) the delay can be attributed clearly and solely to the failure of the applicant to comply with his or her obligations under Article 8.

2. The determining authority shall ensure that an examination procedure on the merits, which is not subject to an accelerated examination procedure, is concluded as soon as possible and not later than six months from the lodging of the application, without prejudice to an adequate and complete examination.

3. The determining authority may extend that time-limit of six months by a period of not more than six months, where:

   (a) a disproportionate number of third-country nationals or stateless persons make an application for international protection within the same period of time, making it unfeasible to conclude the procedure within the six-month time limit;

   (b) complex issues of fact or law are involved;

   (c) the delay can be attributed clearly and solely to the failure of the applicant to comply with his or her obligations under Article 8.

4. Where an application is subject to a procedure of transfer laid down in [Article 35 of Regulation (EU) No XXX/XXX (AMMR Regulation), the time-limit referred to in paragraph 2 shall start to run from when the application is lodged in accordance with Article 28(1a).

5. The determining authority may postpone concluding the examination procedure where it cannot reasonably be expected to decide within the time-limits laid down in paragraph 2 due to an uncertain situation in the country of origin which is expected to be temporary. In such cases, the determining authority shall:

   (a) conduct reviews of the situation in that country of origin at least every four months;

   (aa) where available, take into account reviews of the situation in that country of origin carried out by the European Union Agency for Asylum;

(b) inform the applicants concerned, in a language which they understand or are reasonably supposed to understand and as soon as possible, of the reasons for the postponement.

The Member State shall inform the Commission and the European Union Agency for Asylum as soon as possible of the postponement of procedures for that country of origin. In any event, the determining authority shall conclude the examination procedure within 21 months from the lodging of an application.

6. Member States shall lay down time limits for the conclusion of examination procedure in case the Court annuls the decision of the determining authority and refers the case back. These time limits shall be shorter than the time limits provided in this Article.

## SECTION III

### DECISIONS ON APPLICATIONS

*Article 35*

**Decisions on applications**

1. A decision on an application for international protection shall be given in writing and it shall be notified to the applicant as soon as possible in accordance with national law. Where a representative or legal adviser is legally representing the applicant, the competent authority may notify the decision to him or her instead of the applicant.

2. Where an application is rejected as inadmissible, as unfounded or manifestly unfounded with regard to refugee status or subsidiary protection status, as explicitly withdrawn or as implicitly withdrawn, the reasons in fact and in law shall be stated in the decision.

2a. The applicant shall be informed, in writing of the result of the decision and of how to challenge a decision rejecting an application as inadmissible, as unfounded or manifestly unfounded with regard to refugee status or subsidiary protection status, or as implicitly withdrawn and it may be a part of the decision on an application for international protection. That information shall be provided in a language that the applicant understands or is reasonably supposed to understand when he or she is not assisted by a legal adviser.

2b. Where the applicant is assisted by a legal adviser that is legally representing the applicant the information may be provided solely to that legal adviser without being translated in a language which the applicant understands or is reasonably supposed to understand.

In such case, the fact whether or not international protection is granted shall be transmitted in writing for information to the applicant in a language which he or she understands or is reasonably supposed to understand, including general information on how to challenge it.

3. In cases of applications on behalf of minors or dependent adults without legal capacity, and where the applications are all based on the exact same grounds as the application of the adult responsible, the determining authority may, following an individual assessment for each applicant, take a single decision, covering all applicants, unless to do so would lead to the disclosure of particular circumstances of an applicant which could jeopardise his or her interests, in particular in cases involving gender, gender-based violence, trafficking, sexual orientation, gender identity or age-based persecution. In such cases, a separate decision shall be issued and notified to the person concerned in accordance with paragraph 1.

*Article 35a*

***Rejection of an* application *and issuance of a return decision***

Where an application is rejected as inadmissible, unfounded or manifestly unfounded with regard to both refugee status and subsidiary protection status, or as implicitly or explicitly withdrawn, Member States shall issue a return decision that respects Directive XXX/XXX/EU [Return Directive] and in accordance with the principle of non-refoulement. If a return decision or another decision imposing the obligation to return has already been issued prior to the making of an application for international protection, the return decision under this Article is not required. The return decision shall be issued as part of the decision rejecting the application for international protection or, in a separate act. Where the return decision is issued as a separate act, it shall be issued at the same time and together with the decision rejecting the application for international protection or without undue delay thereafter.

*Article 36*

**Decision on the admissibility of the application**

1. The determining authority may assess the admissibility of an application, in accordance with the basic principles and guarantees provided for in Chapter II, and may be authorised under national law to reject an application as inadmissible where any of the following grounds applies:

   (a) a country which is not a Member State is considered to be a first country of asylum for the applicant pursuant to Article 44, unless it is clear that the applicant will not be admitted or readmitted to that country;

   (b) a country which is not a Member State is considered to be a safe third country for the applicant pursuant to Article 45, unless it is clear that the applicant will not be admitted or readmitted to that country;

   (c) a Member State other than the Member State examining the application has granted the applicant international protection.

   (f) an international criminal court or tribunal has provided safe relocation for the applicant to a Member State or third country, or is unequivocally undertaking actions to that extent, unless new relevant circumstances have arisen which have not been taken into account by the court or tribunal or where there was no legal possibility to raise circumstances relevant to internationally recognized human rights standards before that international criminal court or tribunal;

   (g) the applicant, who is issued with a return decision in accordance with Article 8 of Directive 2008/115/EC, makes an application only after seven working days from the date on which the applicant receives the return decision and provided that he or she had been informed of the consequences of not making an application within that time-limit and that no new relevant elements have arisen since the end of that period.

1aa. The determining authority shall reject an application as inadmissible where the application is a subsequent application where no new relevant elements as referred to in Article 42 (2) and (3a) relating to the examination of whether the applicant qualifies as a beneficiary of international protection in accordance with Regulation (EU) No XXX/XXX [(Qualification Regulation)] or relating to the inadmissibility ground previously applied, have arisen or have been presented by the applicant.

2. […]

3. […]

4. […]

5. […]

*Article 37*

**Decision on the merits of an application**

-1. An application shall not be examined on the merits where:

(a) another Member State is responsible in accordance with [ Regulation (EU) No XXX/XXX (AMMR Regulation)];

(b) an application is rejected as inadmissible in accordance with Article 36 or;

(c) an application is explicitly or implicitly withdrawn; this is without prejudice to Article 38(2), and Article 39(5b).

1. When examining an application on the merits, the determining authority shall take a decision on whether the applicant qualifies as a refugee and, if not, it shall determine whether the applicant is eligible for subsidiary protection in accordance with Regulation (EU) No XXX/XXX [(Qualification Regulation)].

2. The determining authority shall reject an application as unfounded where it has established that the applicant does not qualify for international protection pursuant to Regulation (EU) No XXX/XXX [(Qualification Regulation)].

3. The determining authority may be authorised under national law to declare an unfounded application to be manifestly unfounded if at the time of the conclusion of examination, any of the circumstances referred to in Article 40(1) and (5) apply.

*Article 38*

**Explicit withdrawal of applications**

1. An applicant may, of his or her own motion and at any time during the procedure, withdraw his or her application. The application shall be withdrawn in writing by the applicant in person or delivered by his or her legal adviser legally representing the applicant in accordance with national law.

1a. The competent authorities shall inform the applicant in accordance with Article 7(2)(c) and at the time of the withdrawal of all procedural consequences of such a withdrawal in a language he or she understands or is reasonably supposed to understand.

1b. If the explicit withdrawal takes place before a competent authority other than the determining authority, that authority shall inform the determining authority of such withdrawal. The determining authority shall adopt a decision declaring that the application has been explicitly withdrawn, which shall be final and shall not be subject to an appeal as referred to in Chapter V of this Regulation.

2. Where at the stage that the application is explicitly withdrawn by the applicant the determining authority has already found that the applicant does not qualify for international protection pursuant to Regulation (EU) No XXX/XXX (Qualification Regulation), it may take a decision to reject the application as unfounded or manifestly unfounded.

*Article 39*

***Implicit withdrawal of applications***

1. An application shall be declared as implicitly withdrawn where:

   (a) the applicant, without good cause, has not lodged his/her, application in accordance with Article 28, despite having had an effective opportunity to do so;

   (b) the applicant refuses to cooperate by not providing the information referred to in Article 27(1)(a) and (b), or by not providing his or her biometric data;

   (c) the applicant refuses to provide his or her address, where he or she has one, unless housing is provided by competent authorities;

   (d) the applicant has, without justified cause, not attended a personal interview although he or she was required to do so pursuant to Article 12, or without justified cause refused to respond to questions during the interview to the extent that the outcome of the interview is not sufficient to take a decision on the merits of the application;

   (e) the applicant has repeatedly not complied with reporting duties imposed on him or her in accordance with Article 8(6) or does not remain available to the competent administrative or judicial authorities, unless he or she can demonstrate that his or her failure was owing to specific circumstances beyond his or her control;

   (f) the applicant has lodged the application in a Member State other than provided in [Article 9(1) and (2) of Regulation (EU) No XXX/XXX (AMMR Regulation)] and does not remain present in that State pending the determination of the Member State responsible or the implementation of the transfer procedure, if applicable.

2. Where the authority that assesses whether the application is implicitly withdrawn is a competent authority other than the determining authority and where that authority considers that the application must be considered as such, that authority shall inform the determining authority accordingly. The determining authority shall adopt a decision declaring that the application has been implicitly withdrawn.

3. When the applicant is present, the competent authority shall inform him or her in accordance with Article 7(2)(c) and at the time of the withdrawal of all procedural consequences of such a withdrawal in a language he or she understands or is reasonably supposed to understand.

4. The competent authority may suspend the procedure to give the applicant the possibility for justification or rectification before a decision declaring the application as implicitly withdrawn is made.

5. An application may be rejected as unfounded or as manifestly unfounded where the determining authority has, at the stage that the application is implicitly withdrawn, already found that the applicant does not qualify for international protection pursuant to Regulation (EU) No XXX/XXX (Qualification Regulation).

# SECTION IV

## SPECIAL PROCEDURES

*Article 40*

### Accelerated examination procedure

1. Without prejudice to Article 20(2), the determining authority shall, in accordance with the basic principles and guarantees provided for in Chapter II, accelerate the examination on the merits of an application for international protection, in the cases where:

   (a) the applicant, in lodging his or her application and presenting the facts, has only raised issues that are not relevant to the examination of whether he or she qualifies as a beneficiary of international protection in accordance with Regulation (EU) No XXX/XXX [(Qualification Regulation)];

   (b) the applicant has made clearly, inconsistent or contradictory, clearly false or obviously improbable representations, or representations which contradict relevant and available country of origin information, thus making his or her claim clearly unconvincing as to whether he or she qualifies as a beneficiary of international protection by virtue of Regulation (EU) No XXX/XXX [(Qualification Regulation)];

   (c) the applicant, after having been provided with the full opportunity to show good cause, is considered to have intentionally misled the authorities by presenting false information or documents or by withholding relevant information or documents, particularly, with respect to his or her identity or nationality that could have had a negative impact on the decision or, there are clear grounds to consider that the applicant has, in bad faith, destroyed or disposed of an identity or travel document in order to prevent the establishment of his or her identity or nationality;

   (d) the applicant makes an application merely to delay or frustrate or prevent the enforcement of a decision for his or her removal from the territory of a Member State;

(e) a third country may be considered as a safe country of origin for the applicant within the meaning of this Regulation;

(f) there are reasonable grounds to consider the applicant a danger to the national security or public order of the Member States, or the applicant had been forcibly expelled for serious reasons of national security or public order under national law;

(g) [...]

(h) the application is a subsequent application which is not inadmissible;

(ha) the applicant entered the territory of a Member State~~s~~ unlawfully or prolonged his or her stay unlawfully and, without good reason, has either not presented himself or herself to the competent authorities or not made an application for international protection as soon as possible, given the circumstances of his or her entry;

(hb) the applicant entered the territory of a Member State lawfully, and without good reason has not made an application for international protection as soon as possible, given the grounds of his or her application; this is without prejudice to the need of international protection arising sur place;

(i) the applicant is of a nationality or, in the case of stateless persons, a former habitual resident of a third country for which the proportion of decisions by the determining authority granting international protection is, according to the latest available yearly Union-wide average Eurostat data, 20% or lower, unless the determining authority assesses that a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data or that the applicant belongs to a category of persons for whom the proportion of 20% or lower cannot be considered as representative for their protection needs, taking into account, among others, the significant differences between first instance and final decisions.

Where the European Union Agency for Asylum has provided a guidance note on a country of origin in accordance with Article 11 of Regulation (EU) 2021/2303 showing that a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data, Member States shall use that guidance note as a reference for the application of this point.

2. [...]

3. [...]

4. Where the determining authority considers that the examination of the application involves issues of fact or law that are complex to be examined under an accelerated examination procedure, it may continue the examination on the merits in accordance with Articles 34(2) and 37.

In that case, the applicant concerned shall be informed of the change in the procedure

5. The accelerated examination procedure may be applied to unaccompanied minors only where:

(a) the applicant comes from a third country that may be considered to be a safe country of origin in accordance within the meaning of this Regulation;

(b) there are reasonable grounds to consider the applicant as a danger to the national security or public order of the Member State or the applicant had been forcibly expelled for serious reasons of national security or public order under national law;

(ba) the application is a subsequent application which is not inadmissible;

(baa) the applicant, after having been provided with the full opportunity to show good cause, is considered to have intentionally misled the authorities by presenting false information or documents or by withholding relevant information or documents, particularly, with respect to his or her identity or nationality that could have had a negative impact on the decision or, there are clear grounds to consider that the applicant has, in bad faith, destroyed or disposed of an identity or travel document in order to prevent the establishment of his or her identity or nationality;

(c) the applicant is of a nationality or, in the case of stateless persons, a former habitual residence of a third country for which the proportion of decisions granting international protection by the determining authority is, according to the latest available yearly Union-wide average Eurostat data, 20% or lower, unless the determining authority assesses a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data or that the applicant belongs to a category of persons for whom the proportion of 20% or lower cannot be considered as representative for their protection needs, taking into account, among others, significant differences between first instance and final decisions.

Where the European Union Agency for Asylum has provided a guidance note on a country of origin in accordance with Article 11 of Regulation (EU) 2021/2303 showing that a significant change has occurred in the third country concerned since the publication of the relevant Eurostat data, Member States shall use that guidance note as a reference for the application of this point.

*Article 41*

**Conditions for applying the asylum border procedure**

1. Following the screening carried out in accordance with Regulation (EU) No XXX/XXX [Screening Regulation], where applicable and provided that the applicant has not yet been authorised to enter Member States' territory, a Member State may, in accordance with the basic principles and guarantees of Chapter II, examine an application in a border procedure where that application has been made by a third-country national or stateless person who does not fulfil the conditions for entry in the territory of a Member State as set out in Article 6 of Regulation (EU) 2016/399. The border procedure may take place:

(a) following an application made at an external border crossing point or in a transit zone;

(b) following apprehension in connection with an unauthorised crossing of the external border;

(c) following disembarkation in the territory of a Member State after a search and rescue operation;

(d) following relocation in accordance with Article [X] of Regulation (EU) No XXX/XXX [Regulation on Asylum and Migration Management].

2. Applicants subject to the border procedure shall not be authorised to enter the territory of a Member State, without prejudice to Articles 41c(2) and 41e(2). Any measure taken by Member States to prevent unauthorised entry in their territory shall be in accordance with Directive XXX/XXX/EU [Recast Reception Conditions Directive].

(a) [...];

(b) [...];.

3. By way of derogation from Article 41c(2) last sentence of the first subparagraph, the applicant shall not be authorised to enter the Member State's territory where:

(a) the applicant's right to remain on the territory of a Member State has been revoked in accordance with Article 9(3), point (a) or (bb);

(b) the applicant has no right to remain on the territory of a Member State in accordance with Article 54 and has not requested to be allowed to remain for the purposes of an appeal procedure within the applicable time-limit;

(c) the applicant has no right to remain on the territory of a Member State in accordance with Article 54 and a court or tribunal has decided that the applicant is not to be allowed to remain pending the outcome of an appeal procedure.

In such cases, where the applicant has been subject to a return decision issued in accordance with the Directive XXX/XXX/EU [Return Directive] or a refusal of entry in accordance with Article 14 of Regulation (EU) 2016/399, Article 41g shall apply.

4. Without prejudice and complementary to the monitoring mechanism laid down in Article 14 of Regulation (EU) 2021/2303 [EUAA Regulation], each Member State shall provide for a monitoring of fundamental rights mechanism in relation to the border procedure that meets the criteria set out in Article 7 of Regulation XXX/XXX/EU [Screening Regulation].

5. […]

(a)

(b)

(c)

(d)

6. [...]

7. [...]

8. [...]

9. [...]

(a) [...]

(b) [...]

(c) [...]

(d) [...]

10. [...]

11. [...]

12. [...]

(a) [...]

(b) [...]

(c) [...]

13. [...]

14. [...]

*Article 41a*

***Decisions in the framework of the asylum border procedure***

1. Where a border procedure is applied, decisions may be taken on the following:

(a) the inadmissibility of an application in accordance with Article 36;

(b) the merits of an application if any of the circumstances listed in Article 40(1)(a)-(h) and (i) and (5)(b) applies.

2. Where the number of applicants exceeds the number referred to in Article 41bb(1) and for the purposes of determining admission to a border procedure applied pursuant to Article 40(1), points (c), (f) or (i), or Article 40(5)(b) priority shall be given to the following categories of applications:

(a) applications of certain third country nationals or, in the case of stateless persons, of former habitual residents in a third country, who, in the event of a negative decision, have a higher prospect of being returned, as applicable, to their country of origin, to their country of former habitual residence, to a safe third country or to a first country of asylum, within the meaning of this Regulation.

(b) applications of certain third country nationals or, in the case of stateless persons, of former habitual residents in a third country, who are considered, on serious grounds, to pose a danger to the national security or public order of a Member State.

(c) without prejudice to point (b), applications of certain third country nationals or, in the case of stateless persons, of former habitual residents in a third country that are not minor applicants and their family members.

3. Following admission to a border procedure, priority shall be given to the examination of the applications of minor applicants and their family members.

Member States may also give priority to the examination of applications of certain third country nationals or, in the case of stateless persons, of former habitual residents in a third country, who, in the event of a negative decision, have a higher prospect of being returned, as applicable, to their country of origin, to their country of former habitual residence, to a safe third country or to a first country of asylum, within the meaning of this Regulation.

3. [...]

4. [...]

5. [...]

6. [...]

7. [...]

8. […]

*Article 41b*

**Mandatory application of the asylum border procedure**

1. A Member State shall examine an application in a border procedure in the cases referred to in Article 41(1) where any of the circumstances referred to in Article 40(1), point (c), (f) or (i), applies.

1a. Where the conditions in Article 40(1)(f) apply, and without prejudice to Article 41f, Member States shall take appropriate measures to maintain as far as possible family unity in the border procedure.

1b. For the purpose of paragraph 1a, in order to maintain family unity, "members of that applicant's family" shall be understood as meaning, insofar as the family already existed before the applicant arrived on the territory of the Member States, the following members of the applicant's family who are present on the territory of the same Member State in relation to the application for international protection:

(i) the spouse of the applicant or his or her unmarried partner in a stable relationship, where the law or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its law relating to third-country nationals,

(ii) the minor children of couples referred to in the first indent or of the applicant, on condition that they are unmarried and regardless of whether they were born in or out of wedlock or adopted as defined under national law,

(iii) where the applicant is a minor and unmarried, the father, mother or another adult responsible for the applicant, whether by law or by the practice of the Member State where the adult is present,

(iv) where the applicant is a minor and unmarried, the sibling or siblings of the applicant, provided they are unmarried and minors.

For the purpose of points (ii), (iii) and (iv), on the basis of an individual assessment, a minor shall be considered unmarried if his or her marriage could not be contracted in accordance with the relevant national law in the Member State concerned, in particular having regard to the legal age of marriage.

2. Where, on the basis of information obtained in the framework of monitoring carried out pursuant to Articles 14 and 15 of Regulation (EU) 2021/2303, the Commission has grounds to consider that a Member State is not complying with the requirements laid down in Article 41f(1a), it shall recommend, without delay, the suspension of the application of the border procedure to families with minors pursuant to Article 41e(2)(b). The Commission shall make that recommendation public.

The Member State concerned shall take utmost account of the Commission recommendation with respect to its obligations under Article 41e(2)(b) and with a view to addressing any shortcomings identified to ensure full compliance with the requirements of Article 41f(1a). It shall inform the Commission of the measures taken to give effect to the recommendation.

***Article 41ba***

**The adequate capacity at Union level**

The adequate capacity at Union level for carrying out the border procedures shall be considered to be of 30,000.

***Article 41bb***

**The adequate capacity of a Member State**

1. The Commission shall, by means of an implementing act, calculate the number that corresponds to the adequate capacity of each Member State for carrying out the border procedures by use of the formula laid down in paragraph 3.

Without prejudice to paragraph 2, it shall also set the maximum number of applications a Member State is required to examine in the border procedure per year. That maximum number shall be two times the number obtained through the use of the formula in Article 41bb(3) after the entry into application of this Regulation, three times the number obtained through the use of the formula in Article 41bb(2) one year after the entry into application of this Regulation and four times the number obtained through the use of the formula in Article 41bb(2) two years after the entry into application of this Regulation.

1a. Where a Member State's adequate capacity referred to in the first subparagraph of paragraph 1 is reached, that Member State shall no longer be required to carry out border procedures in the cases referred to in Article 41(1) where the circumstances referred to in Article 40(1), point (c) or (i) apply

2. Where a Member State has examined the maximum number of applications referred to in the second sub-paragraph of paragraph 1, that Member State shall no longer be required to carry out border procedures in the cases referred to in Article 41(1) where the circumstances referred to in Article 40(1), point (c) or (i) apply. The Member State shall nevertheless continue to examine in the border procedure applications of third country nationals to whom the circumstances listed in Article 40(1)(f) and (5)(b) apply.

3. The number referred to in the first subparagraph of paragraph 1 shall be calculated by multiplying the number set out in Article 41ba by the sum of irregular crossings of the external border, arrivals following search and rescue operations and refusals of entry at the external border in the Member State concerned during the previous three years and dividing the result thereby obtained by the sum of irregular crossings of the external border, arrivals following search and rescue operations and refusals of entry at the external border in the Union as a whole during the same period according to the latest available Frontex and Eurostat data.

4. The implementing act referred to in paragraph 1 shall be adopted by the Commission for the first time within two months following the entry into force of this Regulation and then on 15 October every three years thereafter. Following the adoption by the Commission of the implementing act, each Member State shall ensure, within six months of the adoption of that implementing act, that they have the adequate capacity set out in that act in place.

*Article 41bc*

**Measure applicable in case the adequate capacity of a Member State is reached**

1. When the number of applicants that are subject to the border procedure in a Member State at any given moment is equal to or exceeds the number set out in respect of that Member State in the Commission implementing act referred to in the first subparagraph of paragraph 1 of Article 41bb, that Member State may notify the Commission of the fact.

2. Where a Member State notifies the Commission in accordance with paragraph 1, by way of derogation from Article 41b(1), that Member State is not, required to examine in a border procedure applications made by applicants referred to in Article 40(1)(i) at a moment when the number of applicants that are subject to the border procedure in that Member State is equal to or exceeds the number referred to in the first subparagraph of paragraph 1 of Article 41bb.

3. The measure in paragraph 2 shall be applied on an inflow-outflow basis and the Member State concerned shall be required to continue examining in a border procedure applications made by applicants referred to in Article 40(1)(i) as soon as the number of applicants that are subject to the border procedure in that Member State at any given moment is lower than the number referred to in the first subparagraph of paragraph 1 of Article 41bb.

4. The measure in paragraph 2 may be applied by a Member State for the remainder of the same calendar year starting from the day following the date of the notification in accordance with paragraph 1.

*Article 41bd*

**Notification by a Member State in case the adequate capacity is reached**

1. The notification referred to in Article 41bc shall contain the following information:

   (a) number of applicants that are subject to the border procedure in the Member State concerned at the time of the notification;

   (b) the measure, referred to in Article 41bc, that the Member State concerned intends to apply or to continue applying;

(c) a substantiated reasoning in support, describing how resorting to the measure concerned could help in addressing the situation, and where applicable, other measures that the Member State concerned has adopted or envisages adopting at national level to alleviate the situation, including those referred to in Article 6a of the Regulation (EU) No XXX/XXX [Asylum and Migration Management Regulation].

2. Member States may notify the Commission in accordance with Article 41bc as part of the notification referred to in [Article 44c and 44d of the Regulation (EU) No XXX/XXX [Asylum and Migration Management Regulation]], where applicable.

3. Where a Member State notifies the Commission in accordance with Articles 41bc, the Member State concerned shall inform other Member States accordingly.

4. A Member State applying the measure set out in Articles 41bc shall inform the Commission on a monthly basis about the following elements:

- the number of applicants that are subject to the border procedure in that Member State at that time,

- the inflow-outflow evolution of the number of persons that are subject to border procedures for each week that month,

- the number of staff responsible for examining applications in the border procedure,

- the average duration of the examination during the administrative stage of the procedure, and

- the average duration of the examination by a court or tribunal of a request to be allowed to remain pending the appeal.

The Commission shall monitor the application of the measure in Article 41bc and to that effect review the information provided by Member States. The Commission shall, within the report referred to in Article 7a of Regulation EU (No) XXX/XXX [Regulation on Asylum and Migration Management], provide an assessment of the application of the measure in Article 41bc in every Member States.

*Article 41be*

**Notification by a Member State in case the annual maximum number of applications is reached**

Where the number of applications that have been examined in the border procedure in a Member State within one calendar year is equal to or exceeds the maximum number of applications set out in respect of that Member State in the implementing act referred to in Article 41bb(1), that Member State may notify the Commission accordingly

Where the Member State has notified the Commission in accordance with this Article, the Commission shall promptly examine the information provided by the Member State concerned in order to verify that the Member State concerned has examined in the border procedure since the beginning of the calendar year a number of applications that is equal to or exceeds the number set out in respect of that Member State in the implementing act referred to in Article 41bb(1) . On completion of the verification, the Commission shall authorise, by means of an implementing act, the Member State concerned to not examine in the border procedure applications made by applicants referred to in Article 40(1)(c) and (i). Such authorisation shall not exempt the Member State from the obligation to examine in the border procedure applications made by applicants referred to in Article 40(1)(f).

*Article 41c*

**Deadlines**

1. By way of derogation from Article 28 of this Regulation, applications subject to a border procedure shall be lodged no later than five days from registration for the first time or, following a transfer pursuant to Article [57(9) of Regulation EU (No) XXX/XXX [Regulation on Asylum and Migration Management], five days from when the applicant arrives in the Member State of relocation following such a transfer provided that the applicants are given an effective opportunity to do so. Failure to comply with the deadline of five days shall not affect the continued application of the border procedure.

2. The border procedure shall be as short as possible while at the same time enabling a complete and fair examination of the claims. Without prejudice to the last subparagraph of this paragraph, the maximum duration of the border procedure shall be of 12 weeks from when the application is registered until the applicant no longer has a right to remain and is not allowed to remain. Following that period, the applicant shall be authorised to enter the Member State's territory except when Article 41g is applicable.

Member States shall lay down provisions on the duration of the examination procedure by way of derogation from Article 34, of the examination by a court or tribunal of a request to remain lodged in accordance with Article 54(4) and (5) and, if applicable, of the appeal procedure which ensure that all these various procedural steps are finalised within 12 weeks from when the application is registered.

The 12-week period may be extended to 16 weeks if the Member State to which the person is transferred pursuant to Article [57(9)] of Regulation EU (No) XXX/XXX [Regulation on Asylum and Migration Management] is applying the border procedure.

*Article 41d*

**Determination of Member State responsible and relocation**

1. Where the conditions for the border procedure apply, Member States shall decide to carry out the procedure for determining the Member State responsible for examining the application as laid down in Regulation (EU) No XXX/XXX [Regulation on Asylum and Migration Management] at the locations where the border procedure will be carried out, without prejudice to the deadlines established in Article 41c(2).

2. Where the conditions for applying the border procedure are met in the Member State from which the applicant is transferred, a border procedure may be applied by the Member State to which the applicant is transferred in accordance with Article [57(9)] of Regulation EU (No) XXX/XXX [Regulation on Asylum and Migration Management], without prejudice to the deadlines established in Article 41c(2).

*Article 41e*

**Exceptions to the asylum border procedure**

1. The border procedure shall be applied to unaccompanied minors only in the cases referred to in Article 40(5)(b). In case of doubt concerning the applicant's age, the competent authorities shall promptly assess whether the applicant is a minor in accordance with Article 24.

2. Member States shall not apply or shall cease to apply the border procedure at any stage of the procedure where:

   (a) the determining authority considers that the grounds for rejecting an application as inadmissible or for applying the accelerated examination procedure are not applicable or no longer applicable;

   (b) the necessary support cannot be provided to applicants with special reception needs, including minors, in accordance with Chapter IV of Directive XXX/XXX/EU [Recast Reception Conditions Directive], in the locations referred to in Article 41f;

   (c) the necessary support cannot be provided to applicants with special procedural needs in the locations referred to in Article 41f;

   (d) there are relevant medical reasons for not applying the border procedure, including mental health reasons;

   (e) the guarantees and conditions for detention as laid down in Articles 8 to 11 of Directive XXX/XXX [Reception Conditions Directive] are not met or no longer met and the border procedure cannot be applied to the applicant without the use of detention.

   In such cases, the competent authority shall authorise the applicant to enter the territory of the Member State and apply the appropriate asylum procedure.

*Article 41f*

**Locations for carrying out the asylum border procedure**

1. During the examination of applications subject to a border procedure, Member States shall require, pursuant to Article 7 of Directive XXX/XXX/EU [Recast Reception Conditions Directive] and without prejudice to Article 8 thereof, the applicants to reside at or in proximity to the external border or transit zones as a general rule, or in other designated locations within its territory, fully taking into account the specific geographical circumstances of the Member States.

1a. Without prejudice to Article 41bb, Member States shall ensure that families with minors reside in reception facilities appropriate to their needs after assessing the best interests of the child and ensuring a standard of living adequate for the minor's physical, mental, spiritual, moral and social development and in full respect of the requirements of Chapter IV of Directive XXX/XXX/EU [Recast Reception Conditions Directive].

2. Each Member State shall notify to the Commission, two months prior to the date of the application of this Regulation at the latest, the locations where the border procedure will be carried out, including when applying Article 41b and ensure that the capacity of those locations is sufficient to examine the applications covered by that Article. Any changes in the identification of the locations at which the border procedure is applied, shall be notified to the Commission within two months of the changes having taken place.

3. The requirement to reside at a particular place in accordance with paragraphs 1, 1a and 2 shall not be regarded as authorisation to enter into and stay on the territory of a Member State.

4. Where an applicant subject to the border procedure needs to be transferred to the determining authority or to a competent court or tribunal of first instance for the purposes of such a procedure, or transferred for the purposes of receiving medical treatment, such travel shall not in itself constitute an entry into the territory of a Member State.

*Article 41g*

**Border procedure for carrying out return**

1. Third-country nationals and stateless persons whose application is rejected in the context of the procedure referred to in Articles 41-41f shall not be authorised to enter the territory of the Member State.

2. Member States shall require the persons referred to in paragraph 1 to reside for a period not exceeding 12 weeks in locations at or in proximity to the external border or transit zones; where a Member State cannot accommodate them in those locations, it may resort to the use of other locations within its territory. The 12-week period shall start from when the applicant, third-country national or stateless person no longer has a right to remain and is not allowed to remain. The requirement to reside at a particular place in accordance with this paragraph shall not be regarded as authorisation to enter into and stay on the territory of a Member State. The conditions in those locations shall meet the standards equivalent to those of the material reception conditions and healthcare in accordance with Articles 16 and 17 of the Directive XXX/XXX/EU [Recast Reception Conditions Directive] to those still considered to be 'applicants' within the meaning of Article 4(2)(b) of this Regulation".

3. For the purposes of this Article, Article 3, Article 4(1), Article 5, Article 6(1) to (5), Article 7(2) and (3), Articles 8 to 11, Article 12, Article 14(1), Article 15(2) to (4) and Articles 16 to 18 of Directive XXX/XXX/EU [Return Directive ] shall apply.

3a. When the return decision cannot be enforced within the maximum period referred to in paragraph 2, Member States shall continue return procedures in accordance with Directive XXX/XXX/EU [Return Directive].

4. Without prejudice to the possibility to return voluntarily at any moment, persons referred to in paragraph 1 shall be granted a period for voluntary departure unless there is a risk of absconding, or if the application for a legal stay has been rejected as manifestly unfounded, or if the person concerned is a risk to public policy, public security or national security of the Member States. The period for voluntary departure shall be granted only upon request and shall not exceed 15 days without the right to enter the territory of the Member State.
For the purpose of this provision, the person shall surrender any valid travel document in his possession to the competent authorities for as long as necessary to prevent absconding.

5. Member States that, following the rejection of an application in the context of the procedure referred to in Articles 41-41f, issue a refusal of entry in accordance with Article 14 of Regulation (EU) 2016/399, and that have decided not to apply Directive XXX/XXX/EU [Return Directive] in such cases pursuant to Article 2(2), point (a), of that Directive, shall ensure that the treatment and level of protection of the third- country nationals and stateless persons subject to a refusal of entry are in accordance with Article 4(4) of Directive XXX/XXX/EU [Return Directive] and are equivalent to the treatment and level of protection set out in Articles 41g(2) and 41h(3).

*Article 41h*

**Detention**

-1. Detention may only be imposed as a measure of last resort when it proves necessary on the basis of an individual assessment of each case and if other less coercive measures cannot be applied effectively.

1. Persons referred to in Article 41g(1) who have been detained during the procedure referred to in Articles 41-41f and who no longer have a right to remain and are not allowed to remain may continue to be detained for the purpose of preventing entry into the territory of the Member State, preparing the return or carrying out the removal process.

2. Persons referred to in Article 41g(1) who no longer have a right to remain and are not allowed to remain, and who were not detained during the procedure referred to in Articles 41-41f, may be detained if there is a risk of absconding within the meaning of Directive XXX/XXX/EU [Return Directive], if they avoid or hamper the preparation of return or the removal process or they pose a risk to public policy, public security or national security.

3. Detention shall be maintained for as short a period as possible, and only as long as a reasonable prospect of removal exists and arrangements are in progress and executed with due diligence. The period of detention shall not exceed the period referred to in Article 41g(2) and shall be included in the maximum periods of detention set in Article 15(5) and (6) of Directive XXX/XXX/EU [Return Directive] where a consecutive detention is issued immediately following the detention under this Article.

Within six months after the date of entry into force of this Regulation, the European Union Agency for Asylum shall, in accordance with Article 13(2) of Regulation (EU) No XXX/XXX (EU Asylum Agency), develop guidelines on different practices as regards alternatives to detention that could be used in the context of a border procedure.

*Article 42*

**Subsequent applications**

-1. An application made where a final decision on a previous application by the same applicant has not yet been taken shall be considered as a further representation and not as a new application.

That further representation shall be examined in the Member State responsible in the framework of the ongoing examination in the administrative procedure or in the framework of any ongoing appeal procedure in so far as the competent court or tribunal may take into account the elements underlying the further representation.

1. Any further application made in any Member State after a final decision has been taken on a previous application by the same applicant shall be considered as a subsequent application and shall be examined by the Member State responsible.

2. A subsequent application shall be subject to a preliminary examination in which the determining authority shall establish whether new elements have arisen or have been presented by the applicant and which:

(a) significantly increase the likelihood of the applicant to qualify as a beneficiary of international protection by virtue of Regulation (EU) No XXX/XXX [(Qualification Regulation)]; or

(b) relate to an inadmissibility ground previously applied, where the previous application was rejected as inadmissible.

3. The preliminary examination shall be carried out on the basis of written submissions or a personal interview in accordance with the basic principles and guarantees provided for in Chapter II. In particular, the personal interview may be dispensed with in those instances where, from the written submissions, it is clear that the application does not give rise to new elements as referred to in paragraph 2.

3a. The elements presented by the applicant shall be considered as being new only where the applicant was unable, through no fault on his or her own part, to present those elements in the context of the earlier application. Any elements which could have been presented earlier by the applicant need not be taken into account unless they significantly increase the likelihood of the application not being inadmissible or of the applicant qualifying for international protection or if a previous application was rejected as implicitly withdrawn in accordance with Article 39 without an examination on the merits.

4. Where new elements as referred to in paragraph 2 have been presented by the applicant or have arisen, the application shall be further examined on its merits, unless the application may be considered as inadmissible on the basis of another ground provided for in Article 36(1a).

(a)

(b)

5. Where no new elements as referred to in paragraph 2 have been presented by the applicant or have arisen, the application shall be rejected as inadmissible pursuant to Article 36 (1aa)(a).

*Article 43*

**Exception from the right to remain in subsequent applications**

Without prejudice to the principle of *non-refoulement,* Member States may provide an exception from the right to remain on their territory and derogate from Article 54 (5)(d), as from when:

(-a) a first subsequent application has been lodged, merely in order to delay or frustrate the enforcement of a decision which would result in the applicant's imminent removal from that Member State and is not further examined pursuant to Article 42(5);

(a) […]

(b) a second or further subsequent application is made in any Member State following a final decision rejecting a previous subsequent application as inadmissible **or** unfounded or manifestly unfounded.

(c) [...]

# SECTION V

## SAFE COUNTRY CONCEPTS

*Article 43a*

### The notion of effective protection

1. A third country that has ratified and respects the Geneva Convention within the limits of the derogations or limitations made by that third country, as permitted under the Convention, shall be considered as ensuring effective protection. In case of geographical limitations made by the third country, the existence of protection for persons who fall outside of the scope of the Convention shall be assessed in accordance with the criteria set out in paragraph 2.

2. In cases other than that referred to in paragraph 1, that third country shall be considered as ensuring effective protection only where the following criteria are met as a minimum:

   (a) being allowed to remain on the territory of the third country,

   (b) access to means of subsistence sufficient to maintain an adequate standard of living with regard to the overall situation of the hosting third country,

   (c) access to healthcare and essential treatment of illnesses under the conditions generally provided for in that third country;

   (d) access to education under the conditions generally provided for in that third country; and.

   (e) effective protection remains available until a durable solution can be found.

*Article 44*

**The concept of first country of asylum**

1. A third country may only be considered to be a first country of asylum for an applicant where in that country:

   (a) the applicant enjoyed protection in accordance with the Geneva Convention in a third country referred to in Article 43 a(1), or enjoyed effective protection in a third country referred to in Article 43a(2) before travelling to the Union and he or she can still avail himself or herself of that protection;

   (b) the applicant´s life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion;

   (ba) the applicant faces no real risk of serious harm as defined in [Article 16 of Regulation (EU) No XXX/XXX (Qualification Regulation)];

   (bb) the applicant is protected against refoulement in accordance with the Geneva Convention and against removal, in violation of the right to protection from torture and cruel, inhuman or degrading treatment or punishment as laid down in international law;

2. […]

   (a) […]

   (b) […]

   (c) […]

   (d) […]

   (e) […]

   (f) […]

   (g) […]

3. The concept of first country of asylum may only be applied provided that the applicant cannot provide elements justifying why the concept of the first country of asylum is not applicable to him or her, in the framework of an individual assessment.

4. A third country may only be considered to be a first country of asylum for an unaccompanied minor where it is not contrary to his or her best interests and where the authorities of Member States have first received from the authorities of the third country in question the assurance that the unaccompanied minor will be taken in charge by those authorities and that he or she shall immediately benefit from effective protection as defined in Article 43a.

5. Where an application is rejected as inadmissible in application of the concept of the first country of asylum, the determining authority shall:

   (a) inform the applicant in accordance with Article 35;

   (b) provide him or her with a document informing the authorities of the third country, in the language of that country, that the application has not been examined in substance as a consequence of the application of the first country of asylum concept.

6. Where the third country in question does not readmit the applicant to its territory or does not reply within a time limit set by the competent authority, and the applicant shall have access to the procedure in accordance with the basic principles and guarantees provided for in Chapter II and Section I of Chapter III.

7. […]

*Article 45*

**The concept of safe third country**

1. A third country may only be designated as a safe third country where in that country:

   (a) non-nationals' life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion;

   (b) non-nationals face no real risk of serious harm as defined in [Article 16 of Regulation (EU) No XXX/XXX (Qualification Regulation)];

   (c) non-nationals are protected against refoulement in accordance with the Geneva Convention and against removal, in violation of the right to protection from torture and cruel, inhuman or degrading treatment or punishment as laid down in international law;

   (d) the possibility exists to request and, if conditions are fulfilled, receive effective protection as defined in Article 43a.

1a. The designation of a third country as a safe third country both at Union and at national level may be made with exceptions for specific parts of its territory or clearly identifiable categories of persons.

1b. The assessment of whether a third country may be designated as a safe third country in accordance with this Regulation shall be based on a range of relevant and available sources of information, including from Member States, the European Union Agency for Asylum, the European External Action Service, the United Nations High Commissioner for Refugees, the Council of Europe and other relevant international organisations.

2. The concept of safe third country may be applied:

(a) where a third country has been designated as safe third country at Union or national level in accordance with Articles 46 or 50; or

(b) in relation to a specific applicant where the country has not been designated as safe third country at Union or national level, provided that the conditions set out in paragraph 1 are met with regard to that applicant.

2a. The concept of safe third country may only be applied provided that:

(a) the applicant cannot provide elements justifying why the concept of safe third country is not applicable to him or her, in the framework of an individual assessment;

(b) there is a connection between the applicant and the third country in question on the basis of which it would be reasonable for him or her to go to that country;

2b. A third country may only be considered to be a safe third country for an unaccompanied minor where it is not contrary to his or her best interests and where the authorities of Member States have first received from the authorities of the third country in question the assurance that the unaccompanied minor will be taken in charge by those authorities and that he or she shall immediately have access to protection pursuant to paragraph 1(d).

3. Where the EU and a third country have jointly come to an agreement pursuant to Article 218 TFEU that migrants admitted under this agreement will be protected in accordance with the relevant international standards and in full respect of the principle of non-refoulement, the conditions of this Article regarding safe third country status may be presumed fulfilled without prejudice to paragraph 2a.

(a) […]

(b) […]

4. […]

5. […]

6. Where an application is rejected as inadmissible in application of the concept of the safe third country, the determining authority shall:

(a) inform the applicant in accordance with Article 35; and

(b) provide him or her with a document informing the authorities of the third country, in the language of that country, that the application has not been examined in substance.

7. Where the third country in question does not admit or readmit the applicant to its territory, the applicant shall have access to the procedure in accordance with the basic principles and guarantees provided for in Chapter II and Section I of Chapter III.

*Article 46*

**Designation of safe third countries at Union level**

1. Third countries shall be designated as safe third countries at Union level, in accordance with the conditions laid down in Article 45(1).

2. The Commission shall review the situation in third countries that are designated as safe third countries with the assistance of the European Union Agency for Asylum and based on the other sources of information referred to in Article 45(1b).

2a. The European Union Agency for Asylum shall, at the request of the Commission, provide it with information and analysis on specific third countries which could be considered for inclusion in the EU common list of safe third countries. The Commission shall promptly consider any request from a Member State to assess whether a third country could be designated as a safe third country at Union level.

3. The Commission shall be empowered to adopt delegated acts to suspend the designation of a third country as a safe third country at Union level subject to the conditions as set out in Article 49.

*Article 47*

**The concept of safe country of origin**

1. A third country may ***only*** be designated as a safe country of origin in accordance with this Regulation where, on the basis of the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is persecution as defined in [Article 9 of Regulation (EU) No XXX/XXX (Qualification Regulation)] and no real risk of serious harm as defined in [Article 16 of Regulation (EU) No XXX/XXX (Qualification Regulation)].

1a. The designation of a third country as a safe country of origin both at Union and national level may be made with exceptions for specific parts of its territory or clearly identifiable categories of persons.

2. The assessment of whether a third country is a safe country of origin in accordance with this Regulation shall be based on a range of relevant and available sources of information, including information from Member States, the European Union Agency for Asylum, the European External Action Service, the United Nations High Commissioner for Refugees, and other relevant international organisations, and shall take into account where available the common analysis of the country of origin information referred to in Article 11 of Regulation (EU) No 2021/2303 (EU Asylum Agency).

3. In making this assessment, account shall be taken, inter alia, of the extent to which protection is provided against persecution or serious harm by:

   (a) the relevant laws and regulations of the country and the manner in which they are applied;

   (b) observance of the rights and freedoms laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms or the International Covenant for Civil and Political Rights or the United Nations Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention;

(c) the absence of expulsion, removal or extradition of own citizens to third countries where, inter alia, there is a serious risk that they would be subjected to the death penalty, torture, persecution or other inhuman or degrading treatment or punishment, or where their lives or freedom would be threatened on account of their race, religion, nationality, sexual orientation, membership of a particular social group or political opinion, or from which there is a serious risk of an expulsion, removal or extradition to another third country;

(d) the provision for a system of effective remedies against violations of those rights and freedoms.

4. The concept of a safe country of origin may only be applied provided that:

(a) the applicant has the nationality of that country or he or she is a stateless person and was formerly habitually resident in that country;

(aa) the applicant does not belong to a category of persons for which an exception was made when designating the third country as a safe country of origin;

(b) the applicant cannot provide elements justifying why the concept of safe country of origin is not applicable to him or her, in the framework of an individual assessment.

(c) […].

*Article 48*

**Designation of safe countries of origin at Union level**

1. Third countries shall be designated as safe countries of origin at Union level, in accordance with the conditions laid down in Article 47.

2. The Commission shall review the situation in third countries that are designated as safe countries of origin , with the assistance of the European Union Agency for Asylum and based on the other sources of information referred to in Article 47(2).

3. The European Union Agency for Asylum shall, at the request of the Commission provide it with information and analysis on specific third countries which could be considered for inclusion in the common EU list of safe countries of origin. The Commission shall promptly consider any request from a Member State to assess whether a third country could be included in the common EU list of safe countries of origin.

4. The Commission shall be empowered to adopt delegated acts to suspend the presence of a third country from the EU common list of safe countries of origin subject to the conditions as set out in Article 49.

*Article 49*

**Suspension and removal of the designation of a third country as a safe third country or as a safe country of origin at Union level**

1. In case of significant changes in the situation of a third country which is designated as a safe third country or as a safe country of origin at Union level, the Commission shall conduct a substantiated assessment of the fulfilment by that country of the conditions set in Article 45 or Article 47 and, if the Commission considers that those conditions are no longer met, it shall adopt a delegated act suspending the designation of a third country as a safe third country or as a safe country of origin at Union level for a period of six months.

2. The Commission shall continuously review the situation in that third country taking into account inter alia information provided by the Member States and the European Agency for Asylum regarding subsequent changes in the situation of that country.

3. Where the Commission has adopted a delegated act in accordance with paragraph 1 suspending the designation of a third country as a safe third country or as a safe country of origin at Union level, it shall within three months after the date of adoption of that delegated act submit a proposal, in accordance with the ordinary legislative procedure, for amending this Regulation to remove that third country from the designation of safe third countries or of safe countries of origin at Union level.

4. Where such a proposal is not submitted by the Commission within three months from the adoption of the delegated act as referred to in paragraph 1, the delegated act suspending the third country from its designation as a safe third country or as a safe country of origin at Union level shall cease to have effect. Where such a proposal is submitted by the Commission within three months, the Commission shall be empowered, on the basis of a substantiated assessment, to extend the validity of that delegated act for a period of six months, with a possibility to renew this extension once.

4a. Without prejudice to paragraph 4, where the proposal submitted by the Commission to remove the third country from the designation of safe third countries or of safe countries of origin at Union level is not adopted within fifteen months from when the proposal was submitted by the Commission, the suspension of the presence of a third country from its designation as a safe third country or as a safe country of origin at Union level shall cease to have effect.

*Article 50*

**Designation of third countries as safe third countries or safe country of origin at national level**

1. Member States may retain or introduce legislation that allows for the national designation of safe third countries or safe countries of origin other than those designated at Union level for the purposes of examining applications for international protection.

2. Where a third country is suspended from being designated as a safe third country or as a safe country of origin at Union level pursuant to Article 49(1), Member States shall not designate that country as a safe third country or a safe country of origin at national level

3. Where a third country is suspended from being designated as a safe third country or as a safe country of origin at Union level in accordance with the ordinary legislative procedure, a Member State may notify the Commission that it considers that, following changes in the situation of that country, it again fulfils the conditions set out in Article 45(1) and Article 47.

The notification shall include a substantiated assessment of the fulfilment by that country of the conditions set out in Article 45(1) and Article 47 including an explanation of the specific changes in the situation of the third country, which make the country fulfil those conditions again.

Following the notification, the Commission shall request the European Union Agency for Asylum to provide it with information and analysis on the situation in the third country.

The notifying Member State may only designate that third country as a safe third country or as a safe country of origin at national level provided that the Commission does not object to that designation.

The Commission's right of objection shall be limited to a period of two years after the date of removal of that third country from the designation of safe third countries or of safe countries of origin at Union level. Any objection by the Commission shall be issued within a period of three months after the date of each notification by the Member State and after due review of the situation in that third country, having regard to the conditions set out in Articles 45(1) and 47 of this Regulation.

Where it considers that those conditions are fulfilled, the Commission may submit a proposal, in accordance with the ordinary legislative procedure, for amending this Regulation to designate that third country as a safe third country or as a safe country of origin at Union level.

4. Member States shall notify the Commission and the European Union Agency for Asylum of the third countries that are designated as safe third countries or safe countries of origin at national level upon the date of application of this Regulation and immediately after each designation or changes to the designations. Member States shall inform the Commission and the Agency once a year of the other safe third countries to which the concept is applied in relation to specific applicants as referred to in Article 45(2)(b).

# CHAPTER IV
# PROCEDURES FOR THE WITHDRAWAL OF INTERNATIONAL PROTECTION

*Article 51*

**Withdrawal of international protection**

The determining authority shall start the examination to withdraw international protection from a third-country national or stateless person when new elements or findings arise indicating that there are reasons to reconsider whether he or she qualifies for international protection, in particular in those instances referred to in [Articles 14 and 20 of Regulation (EU) No XXX/XXX (Qualification Regulation)].

*Article 52*

**Procedural rules for withdrawal of international protection**

1. Where the determining authority or, if provided for by national law, a competent court or tribunal starts the examination to withdraw international protection from a third-country national or a stateless person, the person concerned shall enjoy the following guarantees:

   (a) he or she shall be informed in writing that his or her qualification as a beneficiary of international protection is being reconsidered and the reasons for such reconsideration; and

   (aa) he or she shall be informed of the obligation to cooperate with the determining authority and other competent authorities, in particular that he or she shall be required to make a written statement and appear for a personal interview or a hearing and answer questions;

(aaa) he or she shall be informed of the consequences of not cooperating with the determining authority and other competent authorities and that failure to submit the written statement and to attend the personal interview or the hearing without due justification shall not prevent the determining authority or the competent court or tribunal from taking a decision to withdraw international protection; and

(b) he or she shall be given the opportunity to submit reasons as to why his or her international protection should not be withdrawn by means of a written statement within reasonable time from the date on which he or she receives the information referred to in point (a) and in a personal interview or hearing at a date set by the determining authority or if provided for by national law, the competent court or tribunal.

2. For the purposes of paragraph 1, the determining authority or the competent court or tribunal:

(a) shall obtain relevant, precise and up-to-date information from relevant and available national, Union and international sources, and where available, take into account the common analysis on the situation in a specific country of origin and the guidance notes referred to in Article 11 of Regulation No 2021/2303 Regulation on the European Union Agency for Asylum; and

(b) shall not obtain any information from the alleged actors of persecution or serious harm in a manner that would result in such actors being informed of the fact that the person concerned is a beneficiary of international protection whose status is under reconsideration.

3. The decision to withdraw international protection shall be given in writing as soon as possible. The reasons in fact and in law shall be stated in the decision and information on the manner on how to challenge, including on the relevant time limits, the decision shall be given in writing.

4. Where the determining authority has taken the decision to withdraw international protection, the provisions of Article 5b and Article 7(3) and Articles 15a to 17 shall apply *mutatis mutandis*.

4a. Where the third country national or stateless person does not cooperate, where applicable, by not submitting a written statement or by not attending the personal interview or the hearing or by not answering questions without due justification, the absence of the written statement or the personal interview or hearing shall not prevent the determining authority or the competent court or tribunal from taking a decision to withdraw international protection. Such refusal to cooperate may only be considered as a rebuttable presumption that the third country national or stateless person no longer wishes to benefit from international protection.

5. The procedure set out in this Article shall not apply where the third country national or stateless person:

(a) unequivocally renounces -his or her recognition as beneficiary of international protection

(b) has become a national of a Member State; or

(c) has subsequently been granted international protection in another Member State.

Member States shall conclude the cases covered by this paragraph in accordance with their national law. This conclusion need not take the form of a decision, but shall be recorded at least in the applicant's file together with the indication of the legal ground for this conclusion.

# CHAPTER V
# APPEAL PROCEDURE

*Article 53*

**The right to an effective remedy**

1. Applicants and persons subject to withdrawal of international protection shall have the right to an effective remedy before a court or tribunal in accordance with the basic principles and guarantees provided for in Chapter II that relate to appeal against the following:

(a) a decision rejecting an application as inadmissible;

(i) [...]

(ii) [...]

(iii) [...]

(iv) [...]

(b) a decision rejecting an application as unfounded or manifestly unfounded in relation to both refugee and subsidiary protection status;

(c) a decision rejecting an application as implicitly withdrawn;

(d) a decision withdrawing international protection;

(e) a return decision issued in accordance with Article 35a of this Regulation.

With respect to the decision referred to in point (d), Member States may provide in their national law that the cases referred to in Article 52(5) shall not be subject to an appeal.

Where a return decision is taken as a part of the related decision as referred to in points (a), (b), (c) or (d), it shall be appealed jointly with these decisions, before the same court of tribunal within the same judicial proceedings and the same time limits. Where a return decision is issued as a separate act pursuant to Article 35a, it may be appealed in a separate judicial proceedings. The time limits for those judicial proceedings shall not exceed the time limits referred to in paragraph 7.

2. Without prejudice to paragraph 1, persons recognised as eligible for subsidiary protection shall have the right to an effective remedy against a decision considering their application unfounded in relation to refugee status.

3. An effective remedy within the meaning of paragraph 1 shall provide for a full and *ex nunc* examination of both facts and points of law, at least before a court or tribunal of first instance, including, where applicable, an examination of the international protection needs pursuant to Regulation (EU) No XXX/XXX [Qualification Regulation].

   [...]

4. Applicants, persons subject to withdrawal of international protection and persons recognised as eligible for subsidiary protection shall be provided with interpretation for the purpose of a hearing before the competent court or tribunal where such a hearing takes place and where appropriate communication cannot otherwise be ensured.

5. Where the court or tribunal considers it necessary, it shall ensure the translation of relevant documents that have not already been translated in accordance with Article 33(4). Alternatively, translations of those relevant documents may be provided by other entities and paid for from public funds in accordance with national law.

   An applicant, a person subject to withdrawal of international protection and a person recognised as eligible for subsidiary protection may, at his or her own cost, ensure the translation of other documents.

6. If the documents are not submitted in due time as determined by the court or tribunal, where the translation is to be provided by the applicant or in time for the court or tribunal to ensure their translation where the translation is ensured by the court or tribunal, the court or tribunal may refuse to take those documents into account.

(a)

(b)

(c)

[…]

[…]

7. Member States shall lay down the following time-limits in their national law for applicants, persons subject to withdrawal of international protection and persons recognised as eligible for subsidiary protection to lodge appeals against the decisions referred to in paragraph 1:

(a) between a minimum of five days and a maximum of 10 days in the case of a decision rejecting an application as inadmissible, as implicitly withdrawn, as unfounded or as manifestly unfounded if at the time of the decision any of the circumstances listed in Article 40(1) or (5) apply;

(b) between a minimum of two weeks and a maximum of one month in all other cases.

8. The time-limits referred to in paragraph 7 shall start to run from the date when the decision of the determining authority is notified, in accordance with Article 35(1) of this Regulation, to the applicant, the person subject to withdrawal of international protection, the person recognised as eligible for subsidiary protection or his or her representative or legal adviser legally representing the applicant. The procedure for notification shall be laid down in national law.

9. [...]

*Article 54*

**Suspensive effect of appeal**

1. The effects of a return decision shall be automatically suspended for as long as an applicant or a person subject to withdrawal of international protection has a right to remain or is allowed to remain in accordance with this Article.

2. Applicants and persons subject to withdrawal of international protection shall have the right to remain on the territory of the Member States until the time-limit within which *applicants can* exercise their right to an effective remedy before a court or tribunal of first instance has expired and, where such a right has been exercised within the time-limit, pending the outcome of the remedy.

   (a) […]

   (b) […]

   (c) […]

3. Without prejudice to the principle of non-refoulement, the applicant and the person subject to withdrawal of international protection shall not have the right to remain pursuant to paragraph 2 where the competent authority has taken one of the following decisions:

   (a) a decision which rejects an application as unfounded or manifestly unfounded if at the time of the decision:

      (i) the applicant is subject to an accelerated examination pursuant to Article 40(1) or 40(5);

      (ii) the applicant is subject to the border procedure, except where the applicant is an unaccompanied minor.

(b) a decision which rejects an application as inadmissible pursuant to Article 36(1a)(a) (f), (g) or (1aa)(a), except where the applicant is an unaccompanied minor subject to the border procedure;

(c) a decision which rejects an application as implicitly withdrawn;

(d) a decision which rejects a subsequent application as unfounded or manifestly unfounded;

(e) a decision to withdraw international protection in accordance with Article 14(1), points (b), (d) and (e), and Article 20(1), point (b), of Regulation No XXX/XXX (Qualification Regulation)].

4. In the cases referred to in paragraph 3, a court or tribunal shall have the power to decide, following an examination of both facts and points of law, whether or not the applicant or the person subject to withdrawal of international protection shall be allowed to remain on the territory of the Member States pending the outcome of the remedy upon the request of the applicant or of the person subject to withdrawal of international protection. The competent court or tribunal *shall* under national law have the power to decide on this matter *ex officio*.

5. For the purpose of paragraph 4, the following conditions shall apply where relevant in the light of any *ex officio* decisions:

(a) the applicant or the person subject to withdrawal of international protection shall have a time-limit of at least 5 days from the date when the decision is notified to him or her to request to be allowed to remain on the territory pending the outcome of the remedy;

(b) the applicant or the person subject to withdrawal of international protection shall be provided with interpretation in the event of a hearing before the competent court or tribunal, where appropriate communication cannot otherwise be ensured;

(c) the applicant or the person subject to withdrawal of international protection shall be provided, upon request, with free legal assistance and representation in accordance with Article 15a;

(d) the applicant or the person subject to withdrawal of international protection shall not be removed from the territory of the Member State responsible:

(i) until the time-limit for requesting a court or tribunal to be allowed to remain has expired;

(ii) where the applicant or the person subject to withdrawal of international protection has requested to be allowed to remain within the set time-limit, pending the decision of the court or tribunal on whether or not the applicant or the person subject to withdrawal of international protection shall be allowed to remain on the territory.

(da) the applicant shall be duly informed in a timely manner of her or his rights under this paragraph.

6. In cases of subsequent applications, by way of derogation from paragraph 5, point (d) of this Article, Member States may provide in national law that the applicant shall not have a right to remain, without prejudice to the respect of the principle of *non-refoulement*, if the appeal has been made merely in order to delay or frustrate the enforcement of a return decision which would result in the applicant's imminent removal from the Member State.

7. An applicant or a person subject to withdrawal of international protection who lodges a further appeal against a first or subsequent appeal decision shall not have a right to remain on the territory of the Member State, without prejudice to the possibility for a court or tribunal to allow the applicant or the person subject to withdrawal of international protection to remain upon the request of the applicant or of the person subject to withdrawal of international protection or acting ex officio in cases where the principle of *non-refoulement* is invoked.

*Article 55*

**Duration of the first level of appeal**

1. Without prejudice to an adequate and complete examination of an appeal, Member States shall lay down in their national law *reasonable* time limits for the court or tribunal to examine the decision of the determining authority and return decision in accordance with Article 53(1).

   (a) [...]

   (b) [...]

   (c) [...]

2. [...]

# CHAPTER VI
# FINAL PROVISIONS

*Article 56*

**Challenge by public authorities**

This Regulation does not affect the possibility for public authorities to challenge the administrative or judicial decisions as provided for in national legislation.

*Article 57*

**Cooperation**

1. Each Member State shall appoint a national contact point and send its address to the Commission. The Commission shall send that information to the other Member States.

2. Member States shall, in liaison with the Commission, take all appropriate measures to establish direct cooperation and an exchange of information between the responsible authorities as well as between the competent authorities and the European Union Agency for Asylum.

3. When resorting to the measures referred to in Article 12(3, Article 27(3), Article 28(3) and Article 34(1b) and (3), Member States shall inform the Commission and the European Union Agency for Asylum as soon as the reasons for applying those exceptional measures have ceased to exist and at least on an annual basis. That information shall, where possible, include data on the percentage of the applications for which derogations were applied to the total number of applications processed during that period.

*Article 57a*

## Data storage

1. Member States shall store the data referred to in Articles 13, 27 and 28 for ten years from the date of a final decision on the application for international protection. The data shall be erased upon expiry of that period or where it is related to a person who has acquired citizenship of any Member State before expiry of that period as soon as the Member State becomes aware that the person concerned has acquired such citizenship.

2. All data will be stored in compliance with the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons regarding the processing of personal data and on the free movement of such data (General Data Protection Regulation), including the principle of purpose and storage limitation.

*Article 57b*

## Calculation of time limits

***Unless otherwise provided, any period of time prescribed in this Regulation shall be calculated as follows:***

(a) where a period expressed in days, weeks or months is to be calculated from the moment at which an event occurs or an action takes place, the day during which that event occurs or that action takes place shall not be counted as falling within the period in question;

(b) a period expressed in weeks or months shall end with the expiry of whichever day in the last week or month is the same day of the week or falls on the same date as the day during which the event or action from which the period is to be calculated occurred or took place. If, in a period expressed in months, the day on which it should expire does not occur in the last month, the period shall end with the expiry of the last day of that month;

(c) time limits shall include Saturdays, Sundays and official holidays in any of the Member States concerned; if a time limit ends on a Saturday, Sunday or official holiday, the next working day shall be counted as last day of the time limit.

*Article 58*

**Committee Procedure**

1. The Commission shall be assisted by the committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.[1]

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

*Article 59*

**Delegated acts**

1. The power to adopt delegated acts referred to in Articles 46, 48 and 49 is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in paragraph 1 shall be conferred on the Commission for a period of five years from the date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

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[1] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

3. The delegation of power may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

3a. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.[2]

4. As soon as it adopts such a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. Such a delegated act and its extensions shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months from notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.[3]

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**2** OJ L 123, 12.5.2016, p. 1–14

**3** OJ L 123, 12.5.2016, p. 1–14

*Article 59a*

**Transitional measures**

Three months after the entry into force of this Regulation, the Commission, in close cooperation with the relevant Union agencies and Member States, shall present a common implementation plan to the Council to ensure that Member States are adequately prepared to implement this Regulation by the date of its entry into application, assessing gaps and operational steps required, and inform the European Parliament thereof.

Based on this common implementation plan, each Member State shall, with the support of the Commission and relevant Union agencies, establish a national implementation plan setting the actions and the timeline for their implementation, six months after entry into force of this Regulation. Each Member State shall complete the implementation of its plan by the date of entry into application of this Regulation.

For the purpose of implementing this Article, Member States may use the support of the relevant Union agencies and Union Funds may provide financial support to the Member States, in accordance with the legislation governing those agencies and funds.

The Commission shall closely monitor the implementation of the national plans.

*Article 59b*

**Financial support**

Actions undertaken by Member States for putting in place free legal counselling and adequate capacity for carrying out the border procedure in accordance with this Regulation shall be eligible for financial support by the Union Funds, made available under the 2021-2027 Multiannual Financial Framework.

*Article 60*

**Monitoring and evaluation**

By two years from *the date of application* of this Regulation and every five years thereafter, the Commission shall report to the European Parliament and the Council on the application of this Regulation in the Member States and shall, where appropriate, propose any amendments.

Member States shall, at the request of the Commission, send it the necessary information for drawing up its report not later than nine months before that time-limit expires.

Within three years from the date of entry into force of this Regulation, and every three years thereafter, the Commission shall assess whether the numbers set out in Article 41ba(1) and in the second subparagraph of Article 41bb(1) and the exceptions to the asylum border procedure continue to be adequate in view of the overall migratory situation in the Union and shall, where appropriate, propose any targeted amendments.

Within one year from the date of entry into force of this Regulation, the Commission shall review the concept of safe third country and shall, where appropriate, propose any targeted amendments.

*Article 61*

**Repeal**

Directive 2013/32/EU is repealed with effect from the date referred to in Article 62(2), without prejudice to Article 62(3).

References to the repealed Directive shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex 2.

3. To the extent that Directive 2005/85/EC continued to be binding upon Member States not bound by Directive 2013/32/EU, Directive 2005/85/EC is repealed with effect from the date on which those Member States are bound by this Regulation. References to the repealed Directive shall be construed as references to this Regulation.

*Article 62*

**Entry into force and application**

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

2. This Regulation shall start to apply from two years from its entry into force.

3. This Regulation shall apply to the procedure for granting international protection in relation to applications lodged as from the date of application of this Regulation. Applications for international protection lodged before that date shall be governed by Directive 2013/32/EU. This Regulation shall apply to the procedure for withdrawing international protection where the examination to withdraw international protection started as from the date of application of this Regulation. Where the examination to withdraw international protection started before the date of application of this Regulation the procedure for withdrawing international protection shall be governed by Directive 2013/32/EU.

4. Each Member State shall notify to the Commission the locations referred to in Article 41(12) as soon as the necessary arrangements have been made to accommodate applicants in these locations during the border procedure and no later than 12 months after the date this Regulation applies. Upon notification from all Member States, the Commission shall inform without delay the Council and the European Parliament. Article 41(2) applies as of two months of the transmission of that information to the Council and the European Parliament. The Commission shall publish the date of application of Article 41(2) in the Official Journal of the European Union. In any event, Article 41(2) shall apply no later than 14 months after the date this Regulation applies. Any changes to a Member State's list of locations shall be notified promptly to the Commission.

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

Done at Brussels,

*For the European Parliament*
*The President*

*For the Council*
*The Preside*