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*Plenary sitting*

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**A8-0186/2017**

10.5.2017

**\*\*\*I**  
**REPORT**

on the proposal for a directive of the European Parliament and of the Council  
laying down standards for the reception of applicants for international  
protection (recast)  
(COM(2016)0465 – C8-0323/2016 – 2016/0222(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Sophia in 't Veld

(Recast – Rule 104 of the Rules of Procedure)

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a directive of the European Parliament and of the Council laying down standards for the reception of applicants for international protection (recast) (COM(2016)0465 – C8-0323/2016 – 2016/0222(COD))**

**(Ordinary legislative procedure – recast)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0465),
  - having regard to Article 294(2) and Article 78(2) (f) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0323/2016),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Italian Senate, asserting that the draft legislative act does not comply with the principle of subsidiarity,
  - having regard to the opinion of the European Economic and Social Committee of 14 December 2016<sup>1</sup>,
  - having regard to the opinion of the Committee of the Regions of 8 February 2017<sup>2</sup>,
  - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts<sup>3</sup>,
  - having regard to the letter of 12 January 2017 from the Committee on Legal Affairs to the Committee on Civil Liberties, Justice and Home Affairs in accordance with Rule 104(3) of its Rules of Procedure,
  - having regard to Rules 104 and 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Employment and Social Affairs (A8-0186/2017),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the Commission proposal does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward

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<sup>1</sup> OJ C 75, 10.3.2017, p. 97.

<sup>2</sup> Not yet published in the Official Journal.

<sup>3</sup> OJ C 77, 28.3.2002, p. 1.

codification of the existing texts, without any change in their substance;

1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;
2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment                      **1**

**Proposal for a directive**  
**Recital 5**

*Text proposed by the Commission*

(5) Reception conditions continue to vary considerably between Member States both in terms of how the reception system is organised and in terms of the standards provided to applicants. The persistent problems in ensuring adherence to the reception standards required for ***a dignified treatment*** of applicants in some Member States has contributed to a disproportionate burden falling on a few Member States with generally high reception standards which are then under pressure to ***reduce*** their standards. ***More*** equal reception standards ***set at an appropriate level*** across all Member States will contribute to a more dignified treatment and fairer distribution of applicants across the EU.

(5) Reception conditions continue to vary considerably between Member States both in terms of how the reception system is organised and in terms of the standards provided to applicants. The persistent problems in ensuring adherence to the reception standards required for an ***adequate standard of living*** of applicants in some Member States has contributed to a disproportionate burden falling on a few Member States with generally high reception standards which are then under pressure to ***ensure that*** their ***high reception standards are maintained***. ***At the same time, frontline Member States are disproportionately facing the weight of large arrivals of migrants and asylum seekers, putting their reception means under heavy pressure and risking a further deterioration in the quality of the standards offered***. Equal and high reception standards across all Member States will contribute to a more dignified treatment and fairer distribution of applicants across the Union.

## Amendment 2

### Proposal for a directive Recital 8

*Text proposed by the Commission*

(8) *Where an applicant is present in another Member State from the one in which he or she is required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation], the applicant should not be entitled to the reception conditions set out in Articles 14 to 17.*

*Amendment*

*deleted*

## Amendment 3

### Proposal for a directive Recital 10

*Text proposed by the Commission*

(10) Standard conditions for the reception of applicants that will suffice to ensure them *a dignified* standard of living and comparable living conditions in all Member States should be laid down. The harmonisation of conditions for the reception of applicants should help to limit the secondary movements of applicants influenced by the variety of conditions for their reception.

*Amendment*

(10) Standard conditions for the reception of applicants that will suffice to ensure them *an adequate* standard of living and comparable living conditions in all Member States should be laid down. The harmonisation of conditions for the reception of applicants should help to limit the secondary movements of applicants influenced by the variety of conditions for their reception.

## Amendment 4

### Proposal for a directive Recital 11

*Text proposed by the Commission*

(11) In order to ensure that applicants are aware of the consequences of absconding, Member States should inform applicants in a uniform manner, *as soon as possible and at the latest when they lodge their* application, of all the obligations *with*

*Amendment*

(11) In order to ensure that applicants are aware of the consequences of absconding, Member States should inform applicants in a uniform manner, *at the time when the person concerned makes an* application *or at the latest prior to the*

*which applicants must comply* relating to reception conditions, including the circumstances under which the granting of material reception conditions may be restricted and of any benefits.

*moment of registration*, of all the *rights and* obligations relating to reception conditions. *This information should include details of the* circumstances under which the granting of material reception conditions may be restricted, *of* any benefits, *free legal assistance and representation, guarantees of specific needs, right to review or appeal against detention or decisions relating to the replacement, reduction or withdrawal of material reception conditions and of the relevant asylum procedures.*

## Amendment 5

### Proposal for a directive Recital 12

#### *Text proposed by the Commission*

(12) Harmonised EU rules on the documents to be issued to applicants make it more difficult for applicants to move in an unauthorised manner within the Union. *It needs to be clarified that Member States should only provide applicants with a travel document when serious humanitarian or other imperative reasons arise.* The validity of travel documents should also be limited to the purpose and duration needed for the reason for which they are issued. *Serious humanitarian reasons* could for instance *be considered when* an applicant needs to travel to another State for medical treatment or to visit relatives in particular cases, such as for visits to close relatives who are seriously ill, or to attend marriages or funerals of close relatives. Other *imperative* reasons could include situations where applicants who have been granted access to the labour market are required to perform essential travel for work purposes, where applicants are required to travel as part of study curricula or where minors are travelling with foster families.

#### *Amendment*

(12) Harmonised EU rules on the documents to be issued to applicants make it more difficult for applicants to move in an unauthorised manner within the Union. The validity of travel documents should be limited to the purpose or duration needed for the reason for which they are issued. *Such a reason* could for instance be *that* an applicant needs to travel to another State for medical treatment or to visit relatives in particular cases, such as for visits to *family members or other* close relatives who are seriously ill, or to attend marriages or funerals of *family members or other* close relatives. Other reasons could include situations where applicants who have been granted access to the labour market are required to perform essential travel for work purposes, where applicants are required to travel as part of study curricula or where minors are travelling with foster families.



## Amendment 6

### Proposal for a directive

#### Recital 13

*Text proposed by the Commission*

(13) Applicants do not have the right to choose the Member State of application. An applicant must apply for international protection *in the Member State either of first entry or, in case of legal presence, in the Member State of legal stay or residence. An applicant who has not complied with this obligation is less likely, following a determination of the Member State responsible under Regulation (EU) No XXX/XXX [Dublin Regulation], to be allowed to stay in the Member State where the application was made and consequently more likely to abscond. His or her whereabouts should therefore be closely monitored.*

*Amendment*

(13) Applicants do not have the right to choose the Member State of application. An applicant must apply for international protection *on the basis of the criteria set out in* Regulation (EU) No XXX/XXX [Dublin Regulation].

## Amendment 7

### Proposal for a directive

#### Recital 14

*Text proposed by the Commission*

(14) Applicants are required *to be present in* the Member State where they made an application or in the Member State to which they are transferred in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation]. *In case* an applicant has absconded *from this Member State* and, *without authorisation, travelled to another Member State*, it is vital, for the purpose of ensuring a well-functioning Common European Asylum System that the applicant is swiftly returned to the Member State where he or she is required to be present. Until such a transfer has taken place, there is a risk that

*Amendment*

(14) Applicants are required to *remain available to the relevant authorities of* the Member State where they made an application or in the Member State to which they are transferred in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation]. *Where* an applicant has absconded *and has travelled to another Member State without authorisation*, it is vital, for the purpose of ensuring a well-functioning Common European Asylum System that the applicant is swiftly returned to the Member State where he or she is required to be present. Until such a transfer has taken

the applicant may abscond and his or her whereabouts should therefore be closely monitored.

place, there is a risk that the applicant may abscond and his or her whereabouts should therefore be closely monitored.

## Amendment 8

### Proposal for a directive Recital 15

*Text proposed by the Commission*

***(15) The fact that an applicant has previously absconded to another Member State is an important factor when assessing the risk that the applicant may abscond. To ensure that the applicant does not abscond again and remains available to the competent authorities, once the applicant has been sent back to the Member State where he or she is required to be present, his or her whereabouts should therefore be closely monitored.***

*Amendment*

***deleted***

## Amendment 9

### Proposal for a directive Recital 16

*Text proposed by the Commission*

***(16) For reasons of public interest or public order, for the swift processing and effective monitoring of his or her application for international protection, for the swift processing and effective monitoring of his or her procedure for determining the Member State responsible in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation] or in order to effectively prevent the applicant from absconding, Member States should, where necessary, assign the applicant residence in a specific place, such as an accommodation centre, a private house, flat, hotel or other premises adapted for housing applicants. Such a decision may be necessary to***

*Amendment*

***(16) For reasons of public interest or public order, for the swift processing and effective monitoring of his or her application for international protection, or in order to effectively prevent the applicant from absconding where it has been established by the relevant authorities that there is a serious and imminent risk that an applicant may abscond, Member States should, where necessary, be able to assign the applicant residence in a specific place, such as an accommodation centre, a private house, flat, hotel or other premises adapted for housing applicants. Such a decision may be necessary to effectively prevent the applicant from absconding in particular in***

effectively prevent the applicant from absconding in particular in cases where the applicant has not complied with the obligations to: make an application in the Member State of first irregular or legal entry; to remain in the Member State where he or she is required to be present; or in cases where the applicant has been sent back to the Member State where he or she is required to be present after having absconded to another Member State. ***In case*** the applicant is entitled to material reception conditions, such material reception conditions should also be provided subject to the applicant residing in this specific place.

## **Amendment 10**

### **Proposal for a directive Recital 17**

*Text proposed by the Commission*

(17) Where there are reasons for considering that there is a risk that an applicant may abscond, Member States should require applicants to report to the competent authorities as frequently as necessary in order to monitor that the applicant does not abscond. To deter applicants from further absconding, Member States should also be able to grant material reception conditions, where the applicant is entitled to such material reception conditions, only in kind.

## **Amendment 11**

### **Proposal for a directive**

cases where the applicant has not complied with the obligations to remain in the Member State where he or she is required to be present, or, in cases where the applicant has been sent back to the Member State, where he or she is required to be present after having absconded to another Member State. ***Where*** the applicant is entitled to material reception conditions, such material reception conditions should also be provided subject to the applicant residing in this specific place.

*Amendment*

(17) Where there are ***specific and objective*** reasons for considering that there is a ***serious and imminent*** risk that an applicant may abscond, Member States should ***be able, where necessary, proportionate and duly justified after an individualised assessment carried out by a judicial authority, to*** require applicants to report to the competent authorities as frequently as necessary in order to monitor that the applicant does not abscond. To deter applicants from further absconding, Member States should also be able to grant material reception conditions, where the applicant is entitled to such material reception conditions, only in kind. ***Applicants should also be able to appeal against decisions requiring them to report to the competent authorities.***

## Recital 18

*Text proposed by the Commission*

(18) *All decisions restricting an applicant's freedom of movement **need to** be based on the individual behaviour and particular situation of the person concerned, **taking into account** any **special** reception needs of applicants and the **principle** of proportionality. Applicants **must** be duly informed of such decisions and of the consequences of non-compliance.*

*Amendment*

(18) *Any restriction on the applicant's freedom of movement **should be adopted only as a measure of last resort and should be** based on the **decision by a judicial authority, which takes into account** the individual behaviour and particular situation of the person concerned, **including** any **specific** reception needs of applicants and the **principles of necessity and** proportionality. Applicants **should** be duly informed of such decisions and of the consequences of non-compliance. **They should also be provided with the possibility of an appeal or review against such decisions.***

## Amendment 12

### Proposal for a directive Recital 19

*Text proposed by the Commission*

(19) In view of the serious consequences for applicants who have absconded or who are considered to be at risk of absconding, the meaning of absconding should be defined *in view of* encompassing both a deliberate action to avoid the applicable asylum procedures and the factual circumstance of not remaining available to the relevant authorities, **including by leaving the territory where the applicant is required to be present.**

*Amendment*

(19) In view of the serious consequences for applicants who have absconded or who are considered to be at risk of absconding, the meaning of absconding should be **strictly defined, in line with standards developed by the European Union Agency for Asylum, as** encompassing both a deliberate action to avoid the applicable asylum procedures and the factual circumstance of not remaining available to the relevant authorities. **Irregular entry, lack of an address or documents proving the identity of an applicant should not constitute valid criteria for determining the risk of absconding.**

## Amendment 13

### Proposal for a directive Recital 20

*Text proposed by the Commission*

(20) The detention of applicants should be applied in accordance with the underlying principle that a person should not be held in detention for the sole reason that he or she is seeking international protection, particularly in accordance with the international legal obligations of the Member States and with Article 31 of the Geneva Convention. Applicants may be detained only under the very clearly defined exceptional circumstances laid down in this Directive and subject to the principle of necessity and proportionality with regard to both the manner and the purpose of such detention. Detention of applicants pursuant to this Directive should only be ordered in writing by judicial ***or administrative*** authorities stating the reasons on which it is based, including in the cases where the person is already detained when making the application for international protection. Where an applicant is held in detention he or she should have effective access to the necessary procedural guarantees, such as judicial remedy ***before a national judicial authority***.

*Amendment*

(20) The detention of applicants should be applied in accordance with the underlying principle that a person should not be held in detention for the sole reason that he or she is seeking international protection, particularly in accordance with the international legal obligations of the Member States and with Article 31 of the Geneva Convention. Applicants may be detained only under the very clearly defined exceptional circumstances laid down in this Directive and subject to the principle of necessity and proportionality with regard to both the manner and the purpose of such detention. Detention of applicants pursuant to this Directive should only be ordered in writing by judicial authorities stating the reasons on which it is based, including in the cases where the person is already detained when making the application for international protection. ***Any decision imposing detention should contain a reference to the consideration of the available alternatives and the reasons why they could not be applied effectively.*** Where an applicant is held in detention he or she should have effective access to the necessary procedural guarantees, such as judicial remedy ***and the right to free legal assistance and representation.***

**Amendment 14**

**Proposal for a directive  
Recital 21**

*Text proposed by the Commission*

(21) Where an applicant has been assigned a specific place of residence but has not complied with this obligation, there needs to be a demonstrated risk that the applicant may abscond in order for the applicant to be detained. In all

*Amendment*

(21) Where an applicant has been assigned a specific place of residence but has not complied with this obligation, there needs to be a demonstrated, ***individually justified, imminent and serious*** risk that the applicant may abscond in order for the

circumstances, special care must be taken to ensure that the length of the detention is proportionate and that it ends as soon as the obligation put on the applicant has been fulfilled or there are no longer reasons for believing that he or she will not fulfil this obligation. The applicant must also have been made aware of the obligation in question and of the consequences of non-compliance.

## Amendment 15

### Proposal for a directive Recital 30

#### *Text proposed by the Commission*

(30) In applying this Directive, Member States should seek to ensure full compliance with the principles of the best interests of the child and of family unity, in accordance with the Charter of Fundamental Rights of the European Union, the 1989 United Nations Convention on the Rights of the Child and the European Convention for the Protection of Human Rights and Fundamental Freedoms respectively. Reception conditions need to be adapted to the specific *situation* of minors, whether unaccompanied or within families, with due regard to their security, physical and emotional care and provided in a manner that encourages their general development.

applicant to be detained. In all circumstances, special care must be taken to ensure that the length of the detention is proportionate and that it ends as soon as the obligation put on the applicant has been fulfilled or there are no longer reasons for believing that he or she will not fulfil this obligation. The applicant must also have been made aware of the obligation in question and of the consequences of non-compliance.

#### *Amendment*

(30) In applying this Directive, Member States should seek to ensure full compliance with the principles of the best interests of the child and of family unity, in accordance with the Charter of Fundamental Rights of the European Union, the 1989 United Nations Convention on the Rights of the Child and the European Convention for the Protection of Human Rights and Fundamental Freedoms respectively. ***The Member States should also ensure full compliance with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence and the Convention on the Elimination of all Forms of Discrimination Against Women.*** Reception conditions need to be adapted to the specific *needs* of minors, whether unaccompanied or within families, with due regard to their security ***and the prevention of sexual and gender-based violence, in particular by means of providing child-friendly accommodation, and to their*** physical and emotional care and ***education, all*** provided in a manner that encourages their general development. ***Detention or any confinement of children, whether unaccompanied or within***

*families, is never in their best interests and always constitutes a child's rights violation. It should therefore be prohibited.*

## Amendment 16

### Proposal for a directive Recital 31

#### *Text proposed by the Commission*

(31) Member States should ensure that applicants receive *the* necessary health *care* which should include, at least, emergency care and essential treatment of illnesses, including of serious mental disorders. To respond to public health concerns with regard to disease prevention and safeguard the health of individual applicants, applicants' access to health *care* should also include preventive medical treatment, such as vaccinations. Member States may require medical screening for applicants on public health grounds. The results of medical screening should not influence the assessment of applications for international protection, which should always be carried out objectively, impartially and on an individual basis in line with Regulation (EU) No XXX/XXX [Procedures Regulation].

#### *Amendment*

(31) Member States should ensure that applicants receive *full and free access to* necessary health *services*, which should include, at least, emergency *and primary* care, *maternity care* and essential treatment of illnesses, including of serious mental disorders *such as post-traumatic stress disorders, and access to sexual and reproductive health services*. To respond to public health concerns with regard to disease prevention and safeguard the health *and rights* of individual applicants, applicants' access to health *services* should also include *preventive sexual and reproductive health care and* preventive medical treatment, such as vaccinations, *and secondary care*. Member States may require medical screening for applicants on public health grounds, *in accordance with guidelines developed jointly by the European Union Agency for Asylum and the European Centre for Disease Prevention and Control*. The results of medical screening should not influence the assessment of applications for international protection, which should always be carried out objectively, impartially and on an individual basis in line with Regulation (EU) No XXX/XXX [Procedures Regulation].

## Amendment 17

### Proposal for a directive

## Recital 32

*Text proposed by the Commission*

(32) *An applicant's entitlement to material reception conditions under this Directive may be curtailed in certain circumstances such as where an applicant has absconded to another Member State from the Member State where he or she is required to be present. However, Member States should in all circumstances ensure access to health care and a dignified standard of living for applicants in line with the Charter of Fundamental Rights of the European Union and the United Nations Convention on the Rights of the Child, in particular by providing for the applicant's subsistence and basic needs both in terms of physical safety and dignity and in terms of interpersonal relationships, with due regard to the inherent vulnerabilities of the person as applicant for international protection and that of his or her family or caretaker.* Due regard must also be given to applicants with *special* reception needs. The specific needs of children, in particular with regard to respect for the child's right to education and access to healthcare have to be taken into account. *When a minor is in a Member State other than the one in which he or she is required to be present, Member States should provide the minor with access to suitable educational activities pending the transfer to the Member State responsible.* The specific needs of *women* applicants who have experienced gender-based *harm* should be taken into account, including via ensuring access, at different stages of the asylum procedure, to medical care, legal support, and to appropriate trauma counselling and psycho-social care.

## Amendment 18

### Proposal for a directive Recital 33

*Amendment*

(32) Member States should in all circumstances ensure access to health care and *an adequate* standard of living for applicants. Due regard must also be given to applicants with *specific* reception needs. The specific needs of children, in particular with regard to respect for the child's right to education and access to healthcare have to be taken into account. The specific needs of *applicants* who have experienced *sexual or* gender-based *violence, in particular women*, should be taken into account, including via ensuring access, at different stages of the asylum procedure, to medical care, legal support, and to appropriate trauma counselling and psycho-social care. *Such applicants should be considered to be persons with specific reception needs.*



*Text proposed by the Commission*

(33) The scope of the definition of family member should reflect the reality of current migratory trends, according to which applicants often arrive to the territory of the Member States after a prolonged period of time in transit. ***The definition should therefore include families formed outside the country of origin, but before their arrival on the territory of the Member States.***

*Amendment*

(33) The scope of the definition of family member should ***be non-discriminatory and should*** reflect the reality of current migratory trends, according to which applicants often arrive to the territory of the Member States after a prolonged period of time in transit. ***Member States should apply the definition of family member in accordance with the Charter of Fundamental Rights of the European Union, the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms and the case-law of the European Court of Human Rights on the scope of the definition of family. They should therefore have regard to the different circumstances of dependency and the particular attention that is to be paid to the best interests of the child, underlining the importance of protecting female applicants, who are the victim of child, early or forced marriage. Unmarried couples should not be discriminated against on grounds of sexual orientation or gender identity.***

**Amendment 19**

**Proposal for a directive  
Recital 34**

*Text proposed by the Commission*

(34) In order to promote the self-sufficiency of applicants and to limit wide discrepancies between Member States, it is essential to provide clear rules on the applicants' access to the labour market and to ensure that such access is effective, by not imposing conditions that effectively hinder an applicant from seeking employment. Labour market tests used to give priority to nationals or to other Union

*Amendment*

(34) In order to promote the self-sufficiency of applicants and to limit wide discrepancies between Member States, it is essential to provide clear rules on the applicants' access to the labour market and to ensure that such access is effective, by not imposing conditions, ***including sector restrictions, working time restrictions or unreasonable administrative formalities,*** that effectively hinder an applicant from

citizens or to third-country nationals legally resident in the Member State concerned should not hinder effective access for applicants to the labour market and should be implemented without prejudice to the principle of preference for Union citizens as expressed in the relevant provisions of the applicable Acts of Accession.

seeking employment. ***Member States should also take effective steps to ensure that the entry of applicants for international protection into the labour market is not achieved through a lowering of applicable salaries, which could then lead to wage dumping practices.*** Labour market tests used to give priority to nationals or to other Union citizens or to third-country nationals legally resident in the Member State concerned should not hinder effective access for applicants to the labour market and should be implemented without prejudice to the principle of preference for Union citizens as expressed in the relevant provisions of the applicable Acts of Accession.

## Amendment 20

### Proposal for a directive Recital 35

*Text proposed by the Commission*

(35) ***The maximum time frame for access to the labour market should be aligned with the duration of the examination procedure on the merits.*** In order to increase integration prospects and self-sufficiency of applicants, ***earlier access to the labour market is encouraged where the application is likely to be well-founded, including when its examination has been prioritised in accordance with Regulation (EU) No XXX/XXX [Procedures Regulation]. Member States should therefore consider reducing that time period as much as possible with a view to ensuring that applicants have access to the labour market no later than 3 months from the date when the application was lodged in cases where the application is likely to be well-founded. Member States should however not grant access to the labour market to applicants whose application for international protection is likely to be unfounded and***

*Amendment*

(35) In order to increase integration prospects and self-sufficiency of applicants, access to the labour market ***should be provided to the applicant as soon as possible and no later than two months from the date when the application for international protection was made.***

*for which an accelerated examination procedure is applied.*

## **Amendment 21**

### **Proposal for a directive**

#### **Recital 39**

*Text proposed by the Commission*

**(39) Due to the possibly temporary nature of the stay of applicants and without prejudice to Regulation (EU) No 1231/2010 of the European Parliament and of the Council, Member States should be able to exclude family benefits and unemployment benefits from equal treatment between applicants and their own nationals and should be able to limit the application of equal treatment in relation to education and vocational training.** The right to freedom of association and affiliation may *also* be limited by excluding applicants from taking part in the management of certain bodies and from holding a public office.

*Amendment*

(39) The right to freedom of association and affiliation may be limited by excluding applicants from taking part in the management of certain bodies and from holding a public office.

## **Amendment 22**

### **Proposal for a directive**

#### **Recital 40 a (new)**

*Text proposed by the Commission*

*Amendment*

**(40a) Applicants who have been granted access to the labour market should be allowed to apply for an EU Blue Card under the relevant Union legislation. Applicants who have been granted access to the labour market should also be allowed to apply for a residence permit for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing under the relevant Union legislation.**

## Amendment 23

### Proposal for a directive

#### Recital 40 b (new)

*Text proposed by the Commission*

*Amendment*

***(40b) Language skills are indispensable in order to ensure that applicants have an adequate standard of living. Learning the official language or one of official languages of the Member State concerned would increase self-reliance and the chance of integration in the host society. It also constitutes a deterrent against secondary movements. Effective access to language courses should therefore be granted to all applicants from the date on which their application for international protection is made***

## Amendment 24

### Proposal for a directive

#### Recital 41

*Text proposed by the Commission*

*Amendment*

(41) To ensure that the material reception conditions provided to applicants comply with the principles set out in this Directive, it is necessary to further clarify the nature of those conditions, including not only housing, food and clothing but also essential non-food items such as sanitary items. It is also necessary that Member States determine the level of material reception conditions provided in the form of financial allowances or vouchers on the basis of relevant references to ensure adequate standards of living for nationals, such as minimum income benefits, minimum wages, minimum pensions, unemployment benefits and social assistance benefits. That does not mean that the amount granted

(41) To ensure that the material reception conditions provided to applicants comply with the principles set out in this Directive, it is necessary to further clarify the nature of those conditions, including not only housing, food and clothing but also essential non-food items such as sanitary items, ***medical devices or education material***. It is also necessary that Member States determine the level of material reception conditions provided in the form of financial allowances or vouchers on the basis of relevant references to ensure adequate standards of living for nationals, such as minimum income benefits, minimum wages, minimum pensions, unemployment benefits and social assistance benefits. That

should be the same as for nationals.  
***Member States may grant less favourable treatment to applicants than to nationals as specified in this Directive.***

## **Amendment 25**

### **Proposal for a directive Recital 42**

*Text proposed by the Commission*

(42) ***In order to restrict the possibility of abuse of the reception system,*** Member States should be able to provide material reception conditions only to the extent applicants do not have sufficient means to provide for themselves. When assessing the resources of an applicant and requiring an applicant to cover or contribute to the material reception conditions, Member States should observe the principle of proportionality and take into account the individual circumstances of the applicant and the need to respect his or her dignity or personal integrity, including the applicant's ***special*** reception needs. Applicants should not be required to cover or contribute to the costs of their necessary health care. The possibility of abuse of the reception system should also be restricted by specifying the circumstances in which accommodation, food, clothing and other essential non-food items provided in the form of financial allowances or vouchers may be replaced with reception conditions provided in kind and the circumstances in which the daily allowance may be reduced or withdrawn while at the same time ensuring ***a dignified*** standard of living for all applicants.

## **Amendment 26**

### **Proposal for a directive Recital 49**

does not mean that the amount granted should be the same as for nationals

*Amendment*

(42) Member States should be able to provide material reception conditions only to the extent applicants do not have sufficient means to provide for themselves. When assessing the resources of an applicant and requiring an applicant to cover or contribute to the material reception conditions, Member States should observe the principle of proportionality and take into account the individual circumstances of the applicant and the need to respect his or her dignity or personal integrity, including the applicant's ***specific*** reception needs. Applicants should not be required to cover or contribute to the costs of their necessary health care. The possibility of abuse of the reception system should also be restricted by specifying the circumstances in which accommodation, food, clothing and other essential non-food items provided in the form of financial allowances or vouchers may be replaced with reception conditions provided in kind and the circumstances in which the daily allowance may be reduced or withdrawn while at the same time ensuring ***an adequate*** standard of living for all applicants.

*Text proposed by the Commission*

(49) Since the objective of this Directive, namely to establish standards for the reception conditions of applicants in Member States, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of this Directive, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

*Amendment*

(49) Since the objective of this Directive, namely to establish **common** standards for the reception conditions of applicants in Member States, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of this Directive, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

**Justification**

*Common minimum standards in reception conditions are vital in discouraging secondary movements of irregular migrants.*

**Amendment 27**

**Proposal for a directive  
Article 2 – paragraph 1 – point 1**

*Text proposed by the Commission*

(1) ‘application for international protection’: means an application for international protection as defined in Article **[4(2)(a)]** of Regulation (EU) No XXX/XXX [**Procedures** Regulation];

*Amendment*

(1) ‘application for international protection’: means an application for international protection as defined in Article **[(2)(7)]** of Regulation (EU) No XXX/XXX [**Qualification** Regulation];

**Amendment 28**

**Proposal for a directive  
Article 2 – paragraph 1 – point 2**

*Text proposed by the Commission*

(2) ‘applicant’: means an applicant as

*Amendment*

(2) ‘applicant’: means an applicant as

defined in Article **[4(2)(b)]** of Regulation (EU) No XXX/XXX **[Procedures Regulation]**;

defined in Article **[(2)(8)]** of Regulation (EU) No XXX/XXX **[Qualification Regulation]**;

## **Amendment 29**

### **Proposal for a directive Article 2 – paragraph 1 – point 3**

*Text proposed by the Commission*

(3) ‘family members’: means family members as defined in **Article [2(9)]** of Regulation (EU) XXX/XXX **[Qualification Regulation]**;

*Amendment*

(3) ‘family members’ means family members as defined in **Article 2(g)** of Regulation (EU) xxx/xxx **[Dublin Regulation]**;

## **Amendment 30**

### **Proposal for a directive Article 2 – paragraph 1 – point 7**

*Text proposed by the Commission*

(7) ‘material reception conditions’: means the reception conditions that include housing, food, clothing and other essential non-food items matching the needs of the applicants in their specific reception conditions, such as sanitary items, provided in kind, or as financial allowances or in vouchers, or a combination of the three, and a daily expenses allowance;

*Amendment*

(7) ‘material reception conditions’: means the reception conditions that include housing, food, clothing and other essential non-food items matching the needs of the applicants in their specific reception conditions, such as sanitary items, **medical devices or education material**, provided in kind, or as financial allowances or in vouchers, or a combination of the three, and a daily expenses allowance;

## **Amendment 31**

### **Proposal for a directive Article 2 – paragraph 1 – point 7 a (new)**

*Text proposed by the Commission*

*Amendment*

**(7a) ‘adequate standard of living’:  
means a quality of life such as to**

*guarantee the health and well-being of the applicant and his or her family, particularly as regards access to the necessary food, clothing, housing, education, health care and social services;*

## Amendment 32

### Proposal for a directive

#### Article 2 – paragraph 1 – point 10

##### *Text proposed by the Commission*

(10) ‘absconding’: means ***the action by which*** an applicant, ***in order to avoid*** asylum procedures, ***either leaves the territory where he or she is obliged to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation] or does not remain*** available to the ***competent*** authorities ***or to the court or tribunal***;

##### *Amendment*

(10) ‘absconding’: means ***a deliberate action of*** an applicant ***aiming to avoid the applicable*** asylum procedures ***by not remaining*** available to the ***relevant*** authorities;

## Amendment 33

### Proposal for a directive

#### Article 2 – paragraph 1 – point 11

##### *Text proposed by the Commission*

(11) ‘risk of absconding’: means the existence of reasons in an individual case, which are based on objective criteria ***defined by*** national law, to believe that an applicant may abscond;

##### *Amendment*

(11) ‘risk of absconding’: means the ***proven*** existence of ***specific*** reasons in an individual case, which are based on objective ***and specific*** criteria ***in accordance with standards developed by the European Union Agency for Asylum and with*** national law, to believe that an applicant may abscond, ***not including criteria of a general nature such as merely being an applicant within the meaning of Regulation (EU).../[Procedures Regulation], or the applicant's nationality***;



## Amendment 34

### Proposal for a directive

#### Article 2 – paragraph 1 – point 13

*Text proposed by the Commission*

(13) ‘applicant with ***special*** reception needs’: means an applicant who is in need of ***special*** guarantees in order to benefit from the rights and comply with the obligations provided for in this Directive, ***such as*** applicants who are minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation.

*Amendment*

(13) ‘applicant with ***specific*** reception needs’: means an applicant who is ***deemed to be*** in need of ***specific conditions or*** guarantees in order to benefit from the rights and comply with the obligations provided for in this Directive, ***potentially falling within any of the following categories:*** applicants who are minors, unaccompanied minors, disabled people, elderly people, pregnant women, single ***women, adolescent girls, women-headed households, lesbian, gay, bisexual, trans and intersex persons,*** single parents with minor children, victims of human trafficking, ***victims of child, early or forced marriage, non-believers, apostates and religious minorities,*** persons with serious illnesses, persons with mental disorders, ***including post-traumatic stress disorder,*** and persons who have been subjected to torture, rape or other serious forms of psychological, physical, ***bias-motivated,*** sexual ***or gender-based*** violence, such as victims of female genital mutilation.

## Amendment 35

### Proposal for a directive

#### Article 3 – paragraph 3

*Text proposed by the Commission*

3. ***This Directive does not apply when Council Directive 2001/55/EC<sup>31</sup> applies;***

*Amendment*

***deleted***

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<sup>31</sup>***Council Directive 2001/55/EC of 20 July***

*2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 1).*

## Amendment 36

### Proposal for a directive Article 3 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

**3a. Member States shall apply this Directive to all unaccompanied minors from the moment of their arrival on the territory of the Member State to the moment of their qualification as a refugee or grant of subsidiary protection status under Regulation (EU) XXX/XXX [Qualification Regulation], or the grant of some other form of humanitarian protection, or their transfer to a third country, in accordance with their best interests, under national law.**

## Amendment 37

### Proposal for a directive Article 4 – paragraph 1

*Text proposed by the Commission*

Member States may introduce or retain more favourable provisions as regards reception conditions for applicants and their *depending close relatives* who are present in the same Member State, or for humanitarian reasons, insofar as these provisions are compatible with this Directive.

*Amendment*

Member States may introduce or retain more favourable provisions as regards reception conditions for applicants and their **family members or other close relatives** who are present in the same Member State, or for humanitarian reasons, insofar as these provisions are compatible with this Directive.

## Amendment 38

### Proposal for a directive

#### Article 5 – paragraph 1 – subparagraph 1

##### *Text proposed by the Commission*

Member States shall inform applicants, ***as soon as possible and at the latest when they are lodging their application for international protection***, of any established benefits and of the obligations with which they must comply relating to reception conditions. They shall point out in the information provided ***that the applicant is not entitled to the reception conditions set out in Articles 14 to 17 of this Directive as stated in Article 17a of the same Directive in any Member State other than where he or she is required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation];***

##### *Amendment*

Member States shall inform applicants, ***at the time the person concerned makes an application or at the latest prior to the moment of registration***, of any established benefits and of the obligations with which they must comply relating to reception conditions. They shall ***as a minimum*** point out in the information provided ***which reception conditions the applicants are entitled to, the consequences of absconding, the grounds for detention, the grounds for replacement, reduction or withdrawal of any material reception conditions and the applicant's right to appeal against detention or decisions relating to the replacement, reduction or withdrawal of material reception conditions. The minimum information shall also include any information relevant to an applicant's personal circumstances that may result in that applicant being considered an applicant with specific reception needs or in need of special procedural guarantees as provided for in this Directive and [the Procedure Regulation] respectively.***

## Amendment 39

### Proposal for a directive

#### Article 5 – paragraph 1 – subparagraph 2

##### *Text proposed by the Commission*

Member States shall ensure that applicants are provided with information on organisations or groups of persons that provide specific legal assistance and

##### *Amendment*

Member States shall ensure that applicants are provided with information on organisations or groups of persons that provide specific legal assistance, ***free legal***

organisations that might be able to help or inform them concerning the available reception conditions, including health care.

***assistance and representation*** and organisations that might be able to help or inform them concerning the available reception conditions, including health care.

#### Amendment 40

##### Proposal for a directive Article 5 – paragraph 2

###### *Text proposed by the Commission*

2. Member States shall ensure that the information referred to in paragraph 1 is in writing using a standard template which shall be developed by the European Union Agency for Asylum and in a language that the applicant understands or is reasonably supposed to understand. Where necessary, this information shall also be supplied orally and adapted to the needs of minors;

###### *Amendment*

2. Member States shall ensure that the information referred to in paragraph 1 is in writing ***in a concise, transparent, intelligible and easily accessible form, using clear and plain language on the basis of*** a standard template which shall be developed by the European Union Agency for Asylum and in a language that the applicant understands or is reasonably supposed to understand. Where necessary, this information shall also be supplied orally and ***in a visual form through videos or pictograms, shall be*** adapted to the needs of minors ***or persons with specific reception needs and shall take into account the applicant's individual circumstances.***

#### Amendment 41

##### Proposal for a directive Article 6 – paragraph 1

###### *Text proposed by the Commission*

1. Member States shall provide applicants with a travel document ***only when serious humanitarian or other imperative reasons arise that require their presence in another State.*** The validity of the travel document shall be limited to the purpose and duration needed for the reason

###### *Amendment*

1. Member States shall provide applicants with a travel document ***without delay, when the presence of the applicant is required in another State. This includes circumstances where an applicant needs to travel to another State for one or more of the following reasons:***

for which it is issued;

- (a) *for medical treatment;*
- (b) *to visit relatives in particular cases, such as for visits to family members or other close relatives who are seriously ill, or to attend marriages or funerals of family members or other close relatives;*
- (c) *in cases where applicants have been granted access to the labour market, to perform essential travel for work purposes;*
- (d) *there is a requirement for applicants to travel as part of study curricula;*
- (e) *minors need to travel with foster families.*

The validity of the travel document shall be limited to the purpose or duration needed for the reason for which it is issued. *The travel document shall allow for multiple re-entries to the territory of the issuing Member State within the period of its validity.*

## Amendment 42

### Proposal for a directive Article 6 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

**1a.** *Member States shall not require applicants to provide unnecessary or disproportionate documentation or impose other administrative requirements on applicants for the sole reason that they are applicants for international protection, or on the sole basis of an applicant's nationality, before granting them the rights to which they are entitled under this Directive.*

## Amendment 43

### Proposal for a directive

#### Article 7 – paragraph 2 – subparagraph 1 – introductory wording

*Text proposed by the Commission*

*Amendment*

2. Member States ***shall*** where necessary decide on the residence of an applicant in a specific place for any of the following reasons:

2. Member States ***may*** where necessary decide on the residence of an applicant in a specific place ***such as an accommodation centre, a private house, flat, hotel or other premises adapted for housing applicants, on the basis of objective criteria defined by national law and of a decision by judicial authorities,*** for any of the following ***justified*** reasons:

## Amendment 44

### Proposal for a directive

#### Article 7 – paragraph 2 – subparagraph 1 – point c

*Text proposed by the Commission*

*Amendment*

(c) ***for the swift processing and effective monitoring of his or her procedure for determining the Member State responsible in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation];***

***deleted***

## Amendment 45

### Proposal for a directive

#### Article 7 – paragraph 2 – subparagraph 1 – point d

*Text proposed by the Commission*

*Amendment*

(d) to effectively prevent the applicant from absconding, in particular:

(d) to effectively prevent the applicant from absconding ***where it has been established by the relevant authorities that there is a risk of absconding,*** in particular:

## Amendment 46

### Proposal for a directive

#### Article 7 – paragraph 2 – subparagraph 1 – point d – indent 1

##### *Text proposed by the Commission*

– for applicants who have not complied with the obligation to make an application in the first Member State of entry as set out in Article [4(1)] of Regulation (EU) No XXX/XXX [Dublin Regulation] and have travelled to another Member State without adequate justification and made an application there; or

##### *Amendment*

– for applicants who have ***deliberately*** not complied with the obligation to make an application in the first Member State of entry as set out in Article [4(1)] of Regulation (EU) No XXX/XXX [Dublin Regulation] ***in order to avoid the applicable asylum procedures***, and have travelled to another Member State without adequate justification and made an application there; or

## Amendment 47

### Proposal for a directive

#### Article 7 – paragraph 3

##### *Text proposed by the Commission*

3. Where there are reasons for considering that there is a risk that an applicant may abscond, Member States ***shall***, where necessary, require the applicant to report to the competent authorities, or to appear before them in person, either without delay or at a specified time as frequently as necessary to effectively prevent the applicant from absconding.

##### *Amendment*

3. Where there are reasons for considering that there is a risk that an applicant may abscond, Member States ***may***, where necessary ***and proportionate and on the basis of a decision by judicial authorities***, require the applicant to report to the competent authorities, or to appear before them in person, either without delay or at a specified time as frequently as necessary to effectively prevent the applicant from absconding ***but no more than once every working day. Such a decision shall be subject to an appeal or review before a judicial authority in accordance with Article 25.***

## Amendment 48

### Proposal for a directive

#### Article 7 – paragraph 4

*Text proposed by the Commission*

4. Member States shall provide for the possibility of granting applicants temporary permission to leave their place of residence or assigned area. Decisions shall be taken objectively and impartially on the merits of the individual case and reasons shall be given if they are negative.

*Amendment*

4. Member States shall provide for the possibility of granting applicants temporary permission to leave their place of residence or assigned area ***and to reside elsewhere***. Decisions shall be taken objectively and impartially on the merits of the individual case and reasons shall be given if they are negative.

## Amendment 49

### Proposal for a directive

#### Article 7 – paragraph 5

*Text proposed by the Commission*

5. Member States shall require applicants to inform the competent authorities of their current place of residence or address or a telephone number where they may be reached and notify any change of telephone number or address to such authorities as soon as possible.

*Amendment*

5. Member States shall require applicants to inform the competent authorities of their current place of residence or address or a telephone number ***or, where applicable, electronic mail address*** where they may be reached and notify any change of address, or telephone number ***or electronic mail*** address to such authorities as soon as possible.

## Amendment 50

### Proposal for a directive

#### Article 7 – paragraph 8

*Text proposed by the Commission*

8. Member States shall state reasons in fact and, where relevant, in law in any decision taken in accordance with this Article. Applicants shall be immediately informed in writing, in a language which

*Amendment*

8. Member States shall state reasons in fact and, where relevant, in law in any decision taken in accordance with this Article. Applicants shall be immediately informed in writing, in a language which



they understand or are reasonably supposed to understand, of the adoption of such a decision, of the procedures for challenging the decision in accordance with Article 25 and of the consequences of non-compliance with the obligations imposed by the decision.

they understand or are reasonably supposed to understand ***and in a concise, transparent, intelligible and easily accessible form, using clear and plain language***, of the adoption of such a decision, of the procedures for challenging the decision in accordance with Article 25 and of the consequences of non-compliance with the obligations imposed by the decision.

## Amendment 51

### Proposal for a directive Article 8 – paragraph 1

#### *Text proposed by the Commission*

1. Member States shall not hold a person in detention for the sole reason that he or she is an applicant.

#### *Amendment*

1. Member States shall not hold a person in detention for the sole reason that he or she is an applicant ***or on the basis of an applicant's nationality. The detention shall be based on a decision by judicial authorities, shall be strictly necessary for the purpose of securing the fulfilment of a specific and concrete obligation incumbent on the applicant, shall be ended as soon as the specific and concrete obligation has been fulfilled, and shall not be punitive in nature.***

## Amendment 52

### Proposal for a directive Article 8 – paragraph 2 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

***2a. Applicants shall not be detained before an assessment of their specific reception needs pursuant to Article 21 has been carried out.***

## Amendment 53

### Proposal for a directive Article 9 – paragraph 2

*Text proposed by the Commission*

2. Detention of applicants shall be ordered in writing by judicial ***or administrative*** authorities. The detention order shall state the reasons in fact and in law on which it is based.

*Amendment*

2. Detention of applicants shall be ordered in writing by judicial authorities. The detention order shall state the reasons in fact and in law on which it is based. ***It shall also contain a reference to the consideration of the available alternatives and the reasons as to why they could not be applied effectively.***

## Amendment 54

### Proposal for a directive Article 9 – paragraph 3

*Text proposed by the Commission*

3. ***Where detention is ordered by administrative authorities, Member States shall provide for a speedy judicial review of the lawfulness of detention to be conducted ex officio and/or at the request of the applicant. When conducted ex officio, such review shall be decided on as speedily as possible from the beginning of detention. When conducted at the request of the applicant, it shall be decided on as speedily as possible after the launch of the relevant proceedings. To this end, Member States shall define in national law the period within which the judicial review ex officio and/or the judicial review at the request of the applicant shall be conducted.***

*Amendment*

***deleted***

## Amendment 55

### Proposal for a directive

#### Article 9 – paragraph 5

##### *Text proposed by the Commission*

5. Detention shall be reviewed by a judicial authority at reasonable intervals of time, ex officio and/or at the request of the applicant concerned, in particular whenever it is of a prolonged duration, relevant circumstances arise or new information becomes available which may affect the lawfulness of detention;

##### *Amendment*

5. Detention shall be reviewed by a judicial authority at reasonable intervals of time, ex officio and/or at the request of the applicant concerned, in particular whenever it is of a prolonged duration, relevant circumstances arise or new information becomes available which may affect the lawfulness of detention. ***Where, as a result of the judicial review, detention is held to be unlawful, the applicant concerned shall be released immediately.***

## Amendment 56

### Proposal for a directive

#### Article 9 – paragraph 6 – subparagraph 1

##### *Text proposed by the Commission*

In cases of a judicial review of the detention order provided for in paragraph 3, Member States shall ensure that applicants have access to free legal assistance and representation. ***This shall include, at least, the preparation of the required procedural documents and participation in the hearing before the judicial authorities on behalf of the applicant.***

##### *Amendment*

In cases of a judicial review of the detention order provided for in paragraph 5 ***of this Article***, Member States shall ensure that applicants have access to free legal assistance and representation ***under the conditions set out in Article 25 (2) to (6).***

## Amendment 57

### Proposal for a directive

#### Article 9 – paragraph 6 – subparagraph 2

##### *Text proposed by the Commission*

***Free legal assistance and representation***

##### *Amendment*

***deleted***

*shall be provided by suitably qualified persons as admitted or permitted under national law whose interests do not conflict or could not potentially conflict with those of the applicant.*

## **Amendment 58**

### **Proposal for a directive Article 9 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

**7. Member States may also provide that free legal assistance and representation are granted:** *deleted*

**(a) only to those who lack sufficient resources; and/or**

**(b) only through the services provided by legal advisers or other counsellors specifically designated by national law to assist and represent applicants.**

## **Amendment 59**

### **Proposal for a directive Article 9 – paragraph 8**

*Text proposed by the Commission*

*Amendment*

**8. Member States may also:** *deleted*

**(a) impose monetary and/or time limits on the provision of free legal assistance and representation, provided that such limits do not arbitrarily restrict access to legal assistance and representation;**

**(b) provide that, as regards fees and other costs, the treatment of applicants shall not be more favourable than the treatment generally accorded to their**

*nationals in matters pertaining to legal assistance.*

#### **Amendment 60**

##### **Proposal for a directive Article 9 – paragraph 9**

*Text proposed by the Commission*

*Amendment*

**9.** *Member States may demand to be reimbursed wholly or partially for any costs granted if and when the applicant's financial situation has improved considerably or if the decision to grant such costs was taken on the basis of false information supplied by the applicant.* **deleted**

#### **Amendment 61**

##### **Proposal for a directive Article 9 – paragraph 10**

*Text proposed by the Commission*

*Amendment*

**10.** *Procedures for access to legal assistance and representation shall be laid down in national law.* **deleted**

#### **Amendment 62**

##### **Proposal for a directive Article 11 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

**1.** The health, including mental health, of applicants in detention who have *special* reception needs shall be of primary concern to national authorities;

**1.** The health, including mental health, of applicants in detention who have *specific* reception needs shall be of primary concern to national authorities;

## Amendment 63

### Proposal for a directive

#### Article 11 – paragraph 1 – subparagraph 2

##### *Text proposed by the Commission*

Where applicants with *special* reception needs are detained, Member States shall ensure regular monitoring and adequate support taking into account their particular situation, including their health.

##### *Amendment*

Where applicants with *specific* reception needs are detained, Member States shall ensure regular monitoring and adequate support taking into account their particular situation, including their *physical and mental* health.

## Amendment 64

### Proposal for a directive

#### Article 11 – paragraph 2 – subparagraph 1

##### *Text proposed by the Commission*

Minors shall be detained *only as a measure of last resort and after it having been established that other less coercive alternative measures cannot be applied effectively. Such detention shall be for the shortest period of time and all efforts shall be made to release the detained minors and place them in accommodation suitable for minors.*

##### *Amendment*

Minors shall *not* be detained. *Member States shall instead establish appropriate care arrangements and accommodate minors and families with minor children in accordance with Article 22(5) while their application for international protection is examined.*

## Amendment 65

### Proposal for a directive

#### Article 11 – paragraph 2 – subparagraph 2

##### *Text proposed by the Commission*

The best interests of the child, as referred to in Article 22(2), shall be a primary consideration for Member States.

##### *Amendment*

The best interests of the child, as referred to in Article 22(2), shall be a primary consideration for Member States.  
*Appropriate care arrangements and*

*reception measures for minor children and their families shall be community based, the least intrusive possible and respect the right to privacy and family life.*

#### **Amendment 66**

##### **Proposal for a directive**

##### **Article 11 – paragraph 2 – subparagraph 3**

*Text proposed by the Commission*

*Amendment*

*Where minors are detained, their right to education must be secured and they shall have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age.*

*deleted*

#### **Amendment 67**

##### **Proposal for a directive**

##### **Article 11 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

*3. Unaccompanied minors shall be detained only in exceptional circumstances. All efforts shall be made to release the detained unaccompanied minor as soon as possible.*

*deleted*

*Unaccompanied minors shall never be detained in prison accommodation.*

*As far as possible, unaccompanied minors shall be provided with accommodation in institutions provided with personnel who take into account the rights and needs of persons of their age and facilities adapted to unaccompanied minors.*

*Where unaccompanied minors are detained, Member States shall ensure that they are accommodated separately from adults.*

## Amendment 68

### Proposal for a directive Article 11 – paragraph 4

*Text proposed by the Commission*

*Amendment*

**4. Detained families shall be provided with separate accommodation guaranteeing adequate privacy.**

**deleted**

## Amendment 69

### Proposal for a directive Article 11 – paragraph 5 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

**5. Where female applicants are detained, Member States shall ensure that they are accommodated separately from male applicants, unless the latter are family members and all individuals concerned consent thereto.**

**5. Member States shall ensure that detained male and female applicants are accommodated separately, unless they are family members and all individuals concerned consent thereto.**

## Amendment 70

### Proposal for a directive Article 11 – paragraph 6

*Text proposed by the Commission*

*Amendment*

**6. In duly justified cases and for a reasonable period that shall be as short as possible Member States may derogate from the third subparagraph of paragraph 2, paragraph 4 and the first subparagraph of paragraph 5, when the applicant is detained at a border post or in a transit zone, with the exception of the cases referred to in Article 41 of Regulation (EU) No XXX/XXX [Procedures Regulation].**

**6. In duly justified cases and for a reasonable period that shall be as short as possible Member States may derogate from the first subparagraph of paragraph 5, when the applicant is detained at a border post or in a transit zone.**



## Justification

*Amendments aimed at prohibiting detention for minors are inextricably linked to admissible amendments under the draft report aiming to strengthen the conditions related to the deprivation of personal freedom, and also to enhance the provisions related to the treatment of vulnerable persons including minors, This Amendment is also inextricably linked with the Rapporteur's admissible Amendment on Article 8 para. 3 (d) (AM 31 of the draft report).*

### Amendment 71

#### Proposal for a directive

#### Article 14 – paragraph 1 – subparagraph 1

##### *Text proposed by the Commission*

Member States shall grant to minor children of applicants and to applicants who are minors access to the education system under *similar* conditions as their own nationals ***for so long as an expulsion measure against them or their parents is not actually enforced. Such education*** may be provided in accommodation centres.

##### *Amendment*

Member States shall grant to minor children of applicants and to applicants who are minors access to the education system under ***the same*** conditions as their own nationals. ***Such education shall be provided for the entire duration of the minors' presence in the territory of the Member State. It*** may be provided in accommodation centres ***as a temporary measure, until access to national education systems is ensured.***

### Amendment 72

#### Proposal for a directive

#### Article 14 – paragraph 2

##### *Text proposed by the Commission*

2. Access to the education system shall not be postponed for more than ***three months*** from the ***date on which*** the application for international protection ***was lodged by or on behalf of the minor.***

##### *Amendment*

2. Access to the education system shall not be postponed for more than ***one month*** from the ***moment when*** the application for international protection ***was made.***

## Amendment 73

### Proposal for a directive

#### Article 15 – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

Member States shall ensure that applicants have access to the labour market ***no later than 6 months*** from the date when the application for international protection was ***lodged if an administrative decision by the competent authority has not been taken and the delay cannot be attributed to the applicant.***

*Amendment*

Member States shall ensure that applicants have access to the labour market ***no later than two months*** from the date when the application for international protection was ***made.***

## Amendment 74

### Proposal for a directive

#### Article 15 – paragraph 1 – subparagraph 2

*Text proposed by the Commission*

Where the Member State has ***accelerated the examination on the merits of an application for*** international protection in accordance with points [(a) to (f)] of Article [40(1)] of Regulation (EU) No XXX/XXX [Procedures Regulation], access to the labour market shall not be granted.

*Amendment*

Where the Member State has ***established that the applicant has no right to*** international protection in accordance with points [(a) to (f)] of Article [40(1)] of Regulation (EU) No XXX/XXX [Procedures Regulation], access to the labour market shall not be granted.

## Amendment 75

### Proposal for a directive

#### Article 15 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. Member States shall use their best endeavours to provide adequate training on employment legislation and non-discrimination to applicants and to authorities, in order to avoid exploitation in the workplace by means of undeclared work practices and other forms of severe***

*labour exploitation, and to avoid discrimination from the date when the application for international protection was made.*

## Amendment 76

### Proposal for a directive

#### Article 15 – paragraph 2 – subparagraph 2

##### *Text proposed by the Commission*

For reasons of labour market policies, Member States may verify whether a vacancy could be filled by nationals of the Member State concerned or by other Union citizens, or by third-country nationals lawfully residing in that Member State.

##### *Amendment*

For reasons of labour market policies, **and especially regarding youth unemployment levels**, Member States may verify whether a vacancy could be filled, **through preferential access**, by nationals of the Member State concerned or by other Union citizens, or by third-country nationals lawfully residing in that Member State.

##### Justification

*This amendment specifies that Member States are able to adopt measures designed to ensure that greater attention is paid to their nationals and EU citizens when it comes to accessing the labour market. It also emphasises the desire to take due account of the problems relating to youth unemployment. This is a highly sensitive issue for EU citizens, and the signatories wish to make clear that, when it comes to accessing the labour market, there will be no special measures or quotas designed to help applicants for international protection to find work more easily than Member State nationals.*

## Amendment 77

### Proposal for a directive

#### Article 15 – paragraph 3 – subparagraph 1 – point a

##### *Text proposed by the Commission*

(a) working conditions, including pay and dismissal, leave and holidays, as well as health and safety requirements at the workplace;

##### *Amendment*

(a) working conditions, including pay and dismissal, **working hours**, leave and holidays, as well as health and safety requirements at the workplace;

## **Amendment 78**

### **Proposal for a directive**

#### **Article 15 – paragraph 3 – subparagraph 1 – point c**

*Text proposed by the Commission*

*Amendment*

(c) education and vocational training,  
*except study and maintenance grants and  
loans or other grants and loans related to  
education and vocational training;*

(c) education and vocational training;

## **Amendment 79**

### **Proposal for a directive**

#### **Article 15 – paragraph 3 – subparagraph 1 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

*(ca) education and employment-related  
education opportunities for adults,  
including training courses for upgrading  
skills and practical workplace experience;*

## **Amendment 80**

### **Proposal for a directive**

#### **Article 15 – paragraph 3 – subparagraph 1 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

*(da) access to educational and  
vocational guidance services afforded by  
employment services;*

## **Amendment 81**

### **Proposal for a directive**

#### **Article 15 – paragraph 3 – subparagraph 1 – point e a (new)**

*Text proposed by the Commission*

*Amendment*

*(ea) access to voluntary work;*

## **Amendment 82**

### **Proposal for a directive**

#### **Article 15 – paragraph 3 – subparagraph 2 – point ii**

*Text proposed by the Commission*

*Amendment*

(ii) *pursuant to point (c) of this paragraph, to education and vocational training which is directly linked to a specific employment activity;* *deleted*

## **Amendment 83**

### **Proposal for a directive**

#### **Article 15 – paragraph 3 – subparagraph 2 – point iii**

*Text proposed by the Commission*

*Amendment*

(iii) *pursuant to point (e) of this paragraph by excluding family benefits and unemployment benefits, without prejudice to Regulation (EU) No 1231/2010.* *deleted*

## **Amendment 84**

### **Proposal for a directive**

#### **Article 15 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

**5a.** *Member States may allow applicants who have been granted access to the labour market in accordance with paragraph 1 and whose applications for international protection have been rejected to apply in-country for a residence permit issued using the format laid down in Regulation (EC) No 1030/2002<sup>1a</sup> pursuant to national laws regulating access to the labour market for third country nationals.*

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*<sup>1a</sup> Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals (OJ L157, 15.6.2002, p. 1).*

## **Amendment 85**

### **Proposal for a directive**

#### **Article 15 – paragraph 5 b (new)**

*Text proposed by the Commission*

*Amendment*

***5b. Where access to the labour market has been granted in accordance with paragraph 1, Member States shall also ensure that applicants are informed in writing of their employment rights under national law, in a language they can understand.***

## **Amendment 86**

### **Proposal for a directive**

#### **Article 15 a (new)**

*Text proposed by the Commission*

*Amendment*

#### ***Article 15a***

##### ***Language courses***

***Member States shall provide applicants with effective access to language courses and civic education courses free of charge from the date when the application for international protection was made.***

***However, Member States may require applicants to cover or contribute to the cost of such courses in accordance with the conditions set out in Article 16(4) and (5).***

## Amendment 87

### Proposal for a directive

#### Article 15 b (new)

*Text proposed by the Commission*

*Amendment*

#### **Article 15b**

##### **Vocational training**

***Member States shall grant applicants access to vocational training irrespective of whether they have access to the labour market. Access to vocational training relating to an employment contract may depend on the extent to which the applicant has access to the labour market in accordance with Article 15.***

## Amendment 88

### Proposal for a directive

#### Article 16 – paragraph 2 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

Member States shall ensure that material reception conditions provide an adequate standard of living for applicants, which guarantees their subsistence and protects their physical and mental health;

Member States shall ensure that material reception conditions provide an adequate standard of living for applicants ***and their families***, which guarantees their subsistence and protects their physical and mental health.

## Amendment 89

### Proposal for a directive

#### Article 16 – paragraph 2 – subparagraph 2

*Text proposed by the Commission*

*Amendment*

Member States shall ensure that that standard of living is met in the specific situation of applicants with ***special*** reception needs as well as in relation to the situation of persons who are in detention.

Member States shall ensure that that standard of living is met in the specific situation of applicants with ***specific*** reception needs as well as in relation to the situation of persons who are in detention.

## Amendment 90

### Proposal for a directive

#### Article 16 – paragraph 4 – subparagraph 1

##### *Text proposed by the Commission*

Member States may require applicants to cover or contribute to the cost of the material reception conditions provided for in paragraph 3, *if* the applicants have sufficient resources, for example if they have been working for a reasonable period of time.

##### *Amendment*

Member States may require applicants to cover or contribute to the cost of the material reception conditions provided for in paragraph 3, ***only where*** the applicants have sufficient resources, for example if they have been working for a reasonable period of time.

## Amendment 91

### Proposal for a directive

#### Article 16 – paragraph 4 – subparagraph 2

##### *Text proposed by the Commission*

If *it transpires* that an applicant had sufficient means to cover material reception conditions at the time when those basic needs were being covered, ***Member States*** may ask the applicant for a refund.

##### *Amendment*

If ***Member States establish*** that an applicant had sufficient means to cover material reception conditions at the time when those basic needs were being covered, ***they*** may ask the applicant for a refund.

## Amendment 92

### Proposal for a directive

#### Article 16 – paragraph 5

##### *Text proposed by the Commission*

5. When assessing the resources of an applicant, when requiring an applicant to cover or contribute to the cost of the material reception conditions or when asking an applicant for a refund in accordance with paragraph 4, Member

##### *Amendment*

5. When assessing the resources of an applicant, when requiring an applicant to cover or contribute to the cost of the material reception conditions or when asking an applicant for a refund in accordance with paragraph 4, Member



States shall **observe** the principle of proportionality. Member States shall also take into account the individual circumstances of the applicant and the need to respect his or her dignity or personal integrity, including the applicant's **special** reception needs. Member States shall in all circumstances ensure that the applicant is provided with a standard of living which guarantees his or her subsistence and protects his or her physical and mental health.

States shall **fully respect** the principle of proportionality. Member States shall also take into account the individual circumstances of the applicant and the need to respect his or her dignity or personal integrity, including the applicant's **specific** reception needs. Member States shall in all circumstances ensure that the applicant is provided with a standard of living which guarantees his or her subsistence and protects his or her physical and mental health.

## Amendment 93

### Proposal for a directive Article 17 – paragraph 1

#### *Text proposed by the Commission*

1. Where housing is provided in kind, it shall supply an adequate standard of living **and** take one or a combination of the following forms:

#### *Amendment*

1. Where housing is provided in kind, it shall supply an adequate standard of living. ***It shall be suitable for applicants in light of their specific situation and needs during the application procedure and not require them to make unnecessary moves between different accommodation. It shall*** take one or a combination of the following forms:

## Amendment 94

### Proposal for a directive Article 17 – paragraph 3

#### *Text proposed by the Commission*

3. Member States shall take into consideration gender and age-specific concerns and the situation of applicants with **special** reception needs when providing material reception conditions.

#### *Amendment*

3. Member States shall take into consideration gender, age and diversity-specific concerns and the situation of applicants with **specific** reception needs when providing material reception conditions.

## Amendment 95

### Proposal for a directive Article 17 – paragraph 4

*Text proposed by the Commission*

4. Member States shall take appropriate measures to prevent assault and gender-based violence, including sexual assault and harassment when providing accommodation.

*Amendment*

4. ***When providing accommodation,*** Member States shall take appropriate measures to prevent assault and gender-based violence, including sexual assault and harassment ***and all forms of violence committed with a bias and discriminatory motive related to the victims' personal characteristics, as referred to in Article 22(3) of Directive 2012/29/EU of the European Parliament and of the Council<sup>1a</sup>.***

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***<sup>1a</sup>Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA ( OJ L 315, 14.11.2012, p. 57).***

## Amendment 96

### Proposal for a directive Article 17 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

***4a. Member States shall provide separate sanitary facilities for female applicants and safe place in accommodation centres for them and their minor children.***

## Amendment 97

### Proposal for a directive Article 17 – paragraph 5

#### *Text proposed by the Commission*

5. Member States shall ensure, as far as possible, that dependent adult applicants with *special* reception needs are accommodated together with close adult relatives who are already present in the same Member State and who are responsible for them whether by law or by the practice of the Member State concerned.

#### *Amendment*

5. Member States shall ensure, as far as possible, that dependent adult applicants with *specific* reception needs are accommodated together with close adult relatives who are already present in the same Member State and who are responsible for them whether by law or by the practice of the Member State concerned.

## Amendment 98

### Proposal for a directive Article 17 – paragraph 7

#### *Text proposed by the Commission*

7. Persons providing material reception conditions, including those working in accommodation centres, shall be adequately trained and shall be bound by the confidentiality rules provided for in national law in relation to any information they obtain in the course of their work.

#### *Amendment*

7. Persons providing material reception conditions, including *health care and education, and* those working in accommodation centres, shall be adequately trained and shall be bound by the confidentiality rules provided for in national law in relation to any information they obtain in the course of their work.

## Amendment 99

### Proposal for a directive Article 17 – paragraph 9 – subparagraph 2

#### *Text proposed by the Commission*

Such different conditions shall in any circumstances ensure access to health care in accordance with Article 18 and *a dignified* standard of living for all applicants.

#### *Amendment*

Such different conditions shall in any circumstances ensure *full* access to health care in accordance with Article 18 and *an adequate* standard of living for all applicants.

## Amendment 100

### Proposal for a directive

#### Article 17 – paragraph 9 – subparagraph 3

##### *Text proposed by the Commission*

When resorting to those exceptional measures, the Member State concerned shall inform the Commission and the European Union Agency for Asylum. It shall also inform the Commission and the European Union Agency for Asylum as soon as the reasons for applying these exceptional measures have ceased to exist.

##### *Amendment*

When resorting to those exceptional measures, the Member State concerned shall inform the Commission and the European Union Agency for Asylum ***without delay, stating the reasons for those measures***. It shall also inform the Commission and the European Union Agency for Asylum as soon as the reasons for applying these exceptional measures have ceased to exist.

## Amendment 101

### Proposal for a directive

#### Article 17a

##### *Text proposed by the Commission*

##### *Article 17a*

***Reception conditions in a Member State other than the one in which the applicant is required to be present***

***1. An applicant shall not be entitled to the reception conditions set out in Articles 14 to 17 in any Member State other than the one in which he or she is required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation].***

***2. Member States shall ensure a dignified standard of living for all applicants.***

***3. Pending the transfer under Regulation (EU) No XXX/XXX [Dublin Regulation] of a minor to the Member***

##### *Amendment*

***deleted***

*State responsible, Member States shall provide him or her with access to suitable educational activities.*

## **Amendment 102**

### **Proposal for a directive Article 18 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall ensure that applicants, irrespective of where they are required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation], receive the necessary health care which shall include, at least, emergency care and essential treatment of illnesses, including of serious mental disorders.

*Amendment*

1. Member States shall ensure that applicants, irrespective of where they are required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation], receive the necessary ***primary and secondary*** health care ***under the same conditions as their own nationals from the moment when the application for international protection was made. Such health care*** shall include, at least, emergency care and essential treatment of illnesses, including of serious mental disorders ***and sexual and reproductive health care.***

## **Amendment 103**

### **Proposal for a directive Article 18 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Member States shall ensure that minor children of applicants and applicants who are minors receive the same access to health care as their own nationals who are minors. Treatment provided in accordance with this paragraph shall not be interrupted for the***

*sole reason of a minor coming to age.*

#### **Amendment 104**

##### **Proposal for a directive Article 18 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall provide necessary medical or other assistance to applicants who have *special* reception needs, including appropriate mental health care where needed.

*Amendment*

2. Member States shall provide necessary medical or other assistance to applicants who have *specific* reception needs, including appropriate mental health care where needed *and rehabilitation services*.

#### **Amendment 105**

##### **Proposal for a directive Article 19 – paragraph 1**

*Text proposed by the Commission*

1. With regard to applicants *who are required to be present on their territory in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation]*, Member States may, in the situations described in paragraph 2:

*Amendment*

1. With regard to applicants Member States may, in the situations described in paragraph 2, *and on the basis of a decision by judicial authorities*:

#### **Amendment 106**

##### **Proposal for a directive Article 19 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) reduce or, in exceptional and duly justified cases, withdraw the daily allowances.

*Amendment*

(b) reduce or, in exceptional and duly justified cases, withdraw the daily allowances, *while still guaranteeing an adequate standard of living*.

## Amendment 107

### Proposal for a directive

#### Article 19 – paragraph 2 – subparagraph 1 – point c

*Text proposed by the Commission*

(c) has ***lodged*** a subsequent application as defined in Article [4(2)(i)] of Regulation (EU) No XXX/XXX [Procedures Regulation]; or

*Amendment*

(c) has ***made*** a subsequent application as defined in Article [4(2)(i)] of Regulation (EU) No XXX/XXX [Procedures Regulation]; or

## Amendment 108

### Proposal for a directive

#### Article 19 – paragraph 2 – subparagraph 1 – point f

*Text proposed by the Commission*

(f) fails to attend compulsory integration measures; or

*Amendment*

(f) ***intentionally*** fails to attend compulsory integration measures; or

## Amendment 109

### Proposal for a directive

#### Article 19 – paragraph 3

*Text proposed by the Commission*

3. Decisions for replacement, reduction or withdrawal of material reception conditions shall be taken objectively and impartially on the merits of the individual case and reasons shall be given. Decisions shall be based on the particular situation of the person concerned, especially with regard to applicants with ***special*** reception needs, taking into account the principle of proportionality. Member States shall under all circumstances ensure access to health care in accordance with Article 18 and shall ensure ***a dignified*** standard of living for all applicants.

*Amendment*

3. Decisions for replacement, reduction or withdrawal of material reception conditions shall be taken objectively and impartially on the merits of the individual case and reasons shall be given. Decisions shall be based on the particular situation of the person concerned, especially with regard to applicants with ***specific*** reception needs, taking into account the principle of proportionality. Member States shall under all circumstances ensure access to health care in accordance with Article 18 and shall ensure ***an adequate*** standard of living for all applicant.;

## Amendment 110

### Proposal for a directive Article 20 – paragraph 1

#### *Text proposed by the Commission*

Member States shall take into account the specific situation of applicants with *special* reception needs in the national law implementing this Directive.

#### *Amendment*

Member States shall take into account the specific situation of applicants with *specific* reception needs, *as defined in Article 2 (13)*, in the national law implementing this Directive.

## Amendment 111

### Proposal for a directive Article 21 – paragraph 1 – subparagraph 1

#### *Text proposed by the Commission*

In order to effectively implement Article 20, Member States shall systematically assess whether the applicant is an applicant with *special* reception needs. Member States shall also indicate the nature of such needs.

#### *Amendment*

In order to effectively implement Article 20, Member States shall systematically *and individually* assess whether the applicant is an applicant with *specific* reception needs, *with the assistance of a qualified interpreter where needed*. Member States shall also indicate the nature of such needs, *the measures to be taken to respond to them and the authorities responsible for such a response*. Member States shall also ensure that applicants can indicate themselves that they have specific needs and that those indications are assessed.

## Amendment 112

### Proposal for a directive Article 21 – paragraph 1 – subparagraph 2

#### *Text proposed by the Commission*

That assessment shall be initiated as *early* as possible after an application for

#### *Amendment*

That assessment shall be initiated *by a responsible authority* as *soon* as possible



international protection is made and *may* be integrated into existing national procedures or into the assessment referred to in Article [19] of Regulation (EU) No XXX/XXX [Procedures Regulation]. Member States shall ensure that those *special* reception needs are also addressed, in accordance with this Directive, if they become apparent at a later stage in the asylum procedure;

*and in any event no later than 15 days* after an application for international protection is made, *shall be completed within 30 days* and *shall* be integrated into existing national procedures or into the assessment referred to in Article [19] of Regulation (EU) No XXX/XXX [Procedures Regulation]. Member States shall ensure that those *specific* reception needs are also addressed, in accordance with this Directive, if they become apparent at a later stage in the asylum procedure, *or if the applicant expresses a reasoned request to have his or her specific reception needs reassessed.*

## **Amendment 113**

### **Proposal for a directive**

#### **Article 21 – paragraph 1 – subparagraph 3**

##### *Text proposed by the Commission*

Member States shall ensure that the support provided to applicants with *special* reception needs in accordance with this Directive takes into account their *special* reception needs throughout the duration of the asylum procedure and shall provide for appropriate monitoring of their situation.

##### *Amendment*

Member States shall ensure that the support provided to applicants with *specific* reception needs in accordance with this Directive takes into account their *specific* reception needs throughout the duration of the asylum procedure and shall provide for appropriate monitoring of their situation.

## **Amendment 114**

### **Proposal for a directive**

#### **Article 21 – paragraph 1 a (new)**

##### *Text proposed by the Commission*

##### *Amendment*

*1a. Where detention would put at risk their physical and psychological integrity, applicants with specific reception needs shall not be detained.*

## Amendment 115

### Proposal for a directive

#### Article 21 – paragraph 2 – point a

*Text proposed by the Commission*

(a) are trained and continues to be trained to detect first signs that an applicant requires *special* receptions conditions and to address those needs when identified;

*Amendment*

(a) are trained and continues to be trained to detect first signs that an applicant requires *specific* receptions conditions and to address those needs when identified;

## Amendment 116

### Proposal for a directive

#### Article 21 – paragraph 2 – point b

*Text proposed by the Commission*

(b) include information concerning the applicant's *special* reception needs in the applicant's file, together with the indication of the signs referred to in point (a) as well as recommendations as to the type of support that may be needed by the applicant;

*Amendment*

(b) include information concerning the applicant's *specific* reception needs in the applicant's file, together with the indication of the signs referred to in point (a) **and the applicant's observations on the need to benefit from specific reception support** as well as recommendations as to the type of support that may be needed by the applicant;

## Amendment 117

### Proposal for a directive

#### Article 21 – paragraph 2 – point c

*Text proposed by the Commission*

(c) refer applicants to a doctor or a psychologist for further assessment of their psychological and physical state where there are indications that applicants may have been victim of torture, rape or of another serious form of psychological, physical **or** sexual violence and that this

*Amendment*

(c) refer applicants to a doctor or a psychologist, for further assessment of their psychological and physical state where there are indications that applicants may have been victim of torture, rape or of another serious form of psychological, physical, sexual, **bias-motivated, or**

could affect the reception needs of the applicant; and;

*gender-based* violence and that this could affect the reception needs of the applicant; *in such cases the doctor or psychologist shall be trained in carrying out such assessments and supported by a qualified interpreter*; and;

## Amendment 118

### Proposal for a directive

#### Article 21 – paragraph 2 – point d

##### *Text proposed by the Commission*

(d) take into account the result of that examination when deciding on the type of *special* reception support which may be provided to the applicant.

##### *Amendment*

(d) take into account the result of that examination, *including the applicant's observations on the need to benefit from specific reception support*, when deciding on the type of *specific* reception support which may be provided to the applicant.

## Amendment 119

### Proposal for a directive

#### Article 21 – paragraph 4

##### *Text proposed by the Commission*

4. Only applicants with *special* reception needs may benefit from the specific support provided in accordance with this Directive.

##### *Amendment*

4. Only applicants with *specific* reception needs may benefit from the specific support provided in accordance with this Directive.

## Amendment 120

### Proposal for a directive

#### Article 22 – paragraph 1

##### *Text proposed by the Commission*

1. The best interests of the child shall be a primary consideration for Member States when implementing the provisions

##### *Amendment*

1. The best interests of the child shall be a primary consideration for Member States when implementing the provisions

of this Directive that **involve** minors.  
Member States shall ensure a standard of living adequate for the minor's physical, mental, spiritual, moral and social development.

of this Directive that **may affect** minors.  
Member States shall ensure a standard of living adequate for the minor's physical, mental, spiritual, moral and social development.

## Amendment 121

### Proposal for a directive

#### Article 22 – paragraph 2 – point b

##### *Text proposed by the Commission*

(b) the minor's well-being and social development, taking into particular consideration the minor's background;

##### *Amendment*

(b) the minor's well-being and social development, taking into particular consideration the minor's background, ***such as his or her ethnic, religious, cultural and linguistic background and further having regard to the need for stability and continuity in care and access to health and education services;***

## Amendment 122

### Proposal for a directive

#### Article 22 – paragraph 2 – point c

##### *Text proposed by the Commission*

(c) safety and security considerations, in particular where there is a risk of the minor being a victim of **human** trafficking;

##### *Amendment*

(c) safety and security considerations, in particular where there is a risk of the minor being a victim of ***any form of violence or exploitation, including trafficking in human beings;***

## Amendment 123

### Proposal for a directive

#### Article 22 – paragraph 5

##### *Text proposed by the Commission*

5. Member States shall ensure that

##### *Amendment*

5. Member States shall ensure that

minor children of applicants or applicants who are minors are lodged with their parents or with the adult responsible for them and their unmarried minor siblings whether by law or by the practice of the Member State concerned, provided it is in the best interests of the minors concerned.

minor children of applicants or applicants who are minors are lodged with their parents or with the adult responsible for them and their unmarried minor siblings whether by law or by the practice of the Member State concerned, provided it is in the best interests of the minors concerned. *For that reason, and in accordance with the principle of family unity, parents or legal or customary primary caregivers shall not be detained. Minors and families with minor children shall be accommodated together in non-custodial, community-based placements while their application for international protection is examined.*

## Amendment 124

### Proposal for a directive Article 22 – paragraph 6

#### *Text proposed by the Commission*

6. Those working with minors, including with unaccompanied minors, shall not have a **verified** record of child-related crimes or offenses and shall receive continuous and appropriate training concerning the rights and needs of unaccompanied minors, including concerning any applicable child safeguarding standards, and shall be bound by the confidentiality rules provided for in national law, in relation to any information they obtain in the course of their work.

#### *Amendment*

6. Those working with minors, including with unaccompanied minors, shall not have a **criminal** record, **especially with regard to any** child-related crimes or offenses and shall receive continuous and appropriate training concerning the rights and needs of unaccompanied minors, including concerning any applicable child safeguarding standards , and shall be bound by the confidentiality rules provided for in national law, in relation to any information they obtain in the course of their work.

## Amendment 125

### Proposal for a directive Article 23 – paragraph 1 – subparagraph 1

Member States shall ***as soon as possible and no later than five working days*** from the moment when an unaccompanied minor ***makes an application for international protection*** take measures to ensure that a guardian represents and assists the unaccompanied minor to enable him or her to benefit from the rights and comply with the obligations provided for in this Directive. The guardian appointed in accordance with Article [22] of Regulation (EU) No XXX/XXX [Procedures Regulation] may perform those tasks. The unaccompanied minor shall be informed immediately of the appointment of the guardian. Where an organisation is appointed as guardian, it shall designate a person responsible for carrying out the duties of guardian in respect of the unaccompanied minor, in accordance with this Directive. The guardian shall perform his or her duties in accordance with the principle of the best interests of the child, as prescribed in Article 22 (2), shall have the necessary expertise to that end and shall not have a ***verified*** record of child-related crimes or offences. In order to ensure the minor's well-being and social development referred to in Article 22 (2)(b), the person acting as guardian shall be changed only when necessary. Organisations or individuals whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be appointed as guardians.

Member States shall from the moment when an unaccompanied minor ***arrives in a Member State*** take measures to ensure that a guardian represents and assists the unaccompanied minor to enable him or her to benefit from the rights and comply with the obligations provided for in this Directive. The guardian appointed in accordance with Article [22] of Regulation (EU) No XXX/XXX [Procedures Regulation] may perform those tasks. The unaccompanied minor shall be informed immediately of the appointment of the guardian. Where an organisation is appointed as guardian, it shall designate a person responsible for carrying out the duties of guardian in respect of the unaccompanied minor, in accordance with this Directive. The guardian shall perform his or her duties in accordance with the principle of the best interests of the child, as prescribed in Article 22 (2), shall have the necessary ***qualifications and expertise, shall receive ongoing and appropriate training*** to that end and shall not have a ***criminal*** record, ***in particular as regards any*** child-related crimes or offences. ***The competent authorities shall regularly review the criminal records of appointed guardians in order to identify potential incompatibilities with their role.*** In order to ensure the minor's well-being and social development referred to in Article 22 (2)(b), the person acting as guardian shall be changed only when necessary. Organisations or individuals whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be appointed as guardians.

## Amendment 126

### Proposal for a directive

#### Article 23 – paragraph 1 – subparagraph 2

*Text proposed by the Commission*

Member States shall ensure that a guardian is not placed in charge of a disproportionate number of unaccompanied minors at the same time that would render him or her unable to perform his or her tasks effectively. Member States shall appoint entities or persons responsible for monitoring at regular intervals that guardians perform their tasks in a satisfactory manner. Those entities or persons shall also have the competence to review complaints lodged by unaccompanied minors against their guardian.

*Amendment*

Member States shall ensure that a guardian is not placed in charge of a disproportionate number of unaccompanied minors at the same time that would render him or her unable to perform his or her tasks effectively, ***and in any case of no more than 20***. Member States shall appoint entities or persons responsible for monitoring at regular intervals that guardians perform their tasks in a satisfactory manner. Those entities or persons shall also have the competence to review complaints lodged by unaccompanied minors against their guardian. ***To this end, unaccompanied minors shall be informed in a concise, transparent, intelligible and easily accessible form, using clear and plain language both orally and in a visual form, in a child-friendly manner and in a language they understand, about who these entities or persons are and how to file complaints against their guardians in confidence and safety.***

**Amendment 127**

**Proposal for a directive**

**Article 23 – paragraph 1 – subparagraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***Member States shall provide unaccompanied minors upon their arrival with:***

***(a) immediate access to health care and education under the same conditions as their nationals who are minors;***

***(b) all necessary information concerning their rights, relevant procedures and protection measures in a child-friendly manner and in a language they understand. To this end, the***

*European Asylum Support Office shall assist Member States in producing information materials for children on their reception conditions.*

## Amendment 128

### Proposal for a directive Article 24 – paragraph 1

#### *Text proposed by the Commission*

1. Member States shall ensure that persons who have been subjected to gender-based ***harm***, torture, rape or other serious acts of violence ***receive the necessary treatment*** for the damage caused by such acts, in particular access to appropriate medical and psychological treatment or care.

#### *Amendment*

1. Member States shall ensure that persons who have been subjected to ***sexual and gender-based violence, other forms of bias-motivated violence***, torture, rape or other serious acts of ***psychological, physical or sexual*** violence ***are provided with integrated and holistic rehabilitation services*** for the damage caused by such acts. ***Such services shall include*** access to appropriate medical and psychological treatment or care ***as well as qualified counselling, with the support of a qualified interpreter where needed. Access to such services shall be provided as early as possible after a victim has been identified.***

## Amendment 129

### Proposal for a directive Article 24 – paragraph 2

#### *Text proposed by the Commission*

2. Those working with ***victims of torture, rape or other serious acts of violence*** shall have had and shall continue to receive appropriate training concerning their needs, and shall be bound by the confidentiality rules provided for in national law, in relation to any information

#### *Amendment*

2. Those working with ***the persons referred to in paragraph 1, including health professionals in charge of implementing paragraph 1***, shall have had and shall continue to receive appropriate training concerning their needs ***and appropriate rehabilitation methods. They***



they obtain in the course of their work.

shall ***also*** be bound by the confidentiality rules provided for in national law ***and applicable professional ethics codes*** in relation to any information they obtain in the course of their work.

## Amendment 130

### Proposal for a directive Article 25 – paragraph 1

#### *Text proposed by the Commission*

1. Member States shall ensure that decisions relating to the granting, replacement withdrawal or reduction of benefits under this Directive or decisions taken under Article 7 which affect applicants individually may be the subject of an appeal within the procedures laid down in national law. ***At least in the last instance the*** possibility of an appeal or a review, in fact and in law, before a judicial authority shall be granted.

#### *Amendment*

1. Member States shall ensure that decisions relating to the granting, replacement, withdrawal or reduction of benefits under this Directive or decisions taken under Article 7 ***or Article 9*** which affect applicants individually may be the subject of an appeal within the procedures laid down in national law. ***The*** possibility of an appeal or a review, in fact and in law, before a judicial authority shall be granted. ***Where a decision taken under Article 7 or Article 9 applies for a period exceeding two months, reviews shall be carried out by a judicial authority ex-officio at reasonable intervals.***

## Amendment 131

### Proposal for a directive Article 25 – paragraph 2 – subparagraph 1

#### *Text proposed by the Commission*

In cases of an appeal or a review before a judicial authority referred to in paragraph 1, Member States shall ensure that free legal assistance and representation is made available on request in so far as such aid is necessary to ensure effective access to justice. This shall include, at least, the preparation of the required procedural documents and participation in the hearing before the judicial authorities on behalf of

#### *Amendment*

In cases of an appeal or a review before a judicial authority referred to in paragraph 1, Member States shall ensure that free legal assistance and representation is made available on request, ***in order to ensure effective access to justice. Such legal assistance and representation*** shall include, at least, the preparation of the required procedural documents, ***the preparation of the appeal*** and participation

the applicant.

in the hearing before the judicial  
authorities on behalf of the applicant.

## Amendment 132

### Proposal for a directive

#### Article 25 – paragraph 2 – subparagraph 2

##### *Text proposed by the Commission*

Free legal assistance and representation shall be provided by suitably qualified persons, as admitted or permitted under national law, whose interests do not conflict or could not potentially conflict with those of the applicant.

##### *Amendment*

Free legal assistance and representation shall be provided by ***legal advisers or other*** suitably qualified persons as admitted or permitted under national law ***to assist or represent the applicants***, whose interests do not conflict or could not potentially conflict with those of the applicant. ***Such persons may include non-governmental organisations accredited under national law to provide advisory services or representation.***

## Amendment 133

### Proposal for a directive

#### Article 25 – paragraph 3 – subparagraph 1 – introductory part

##### *Text proposed by the Commission*

3. ***Member States may also provide that*** free legal assistance and representation ***are granted:***

##### *Amendment*

3. ***The provision of*** free legal assistance and representation ***in the appeal procedure may be denied only where:***

## Amendment 134

### Proposal for a directive

#### Article 25 – paragraph 3 – subparagraph 1 – point a

##### *Text proposed by the Commission*

(a) ***only to those who lack*** sufficient resources; ***and/or***

##### *Amendment*

(a) ***the applicant has*** sufficient resources; ***or***

## Amendment 135

### Proposal for a directive

#### Article 25 – paragraph 3 – subparagraph 1 – point b

*Text proposed by the Commission*

(b) *only through the services provided by legal advisers or other counsellors specifically designated by national law to assist and represent applicants.*

*Amendment*

(b) *the appeal is at a second level of appeal or higher as provided for under national law, including re-hearings or reviews of appeal, and that second level of appeal is considered to have no tangible prospect of success.*

## Amendment 136

### Proposal for a directive

#### Article 25 – paragraph 3 – subparagraph 2

*Text proposed by the Commission*

*Member States may provide that free legal assistance and representation not be made available if the appeal or review is considered by a competent authority to have no tangible prospect of success. In such a case, Member States shall ensure that legal assistance and representation is not arbitrarily restricted and that the applicant's effective access to justice is not hindered.*

*Amendment*

*Where a decision not to grant free legal assistance and representation is taken by an authority which is not a court or tribunal on the ground that the appeal is considered as having no tangible prospect of success, 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.*

## Amendment 137

### Proposal for a directive

#### Article 25 – paragraph 4 – introductory part

*Text proposed by the Commission*

4. Member States *may* also:

*Amendment*

4. Member States *shall* also:

## Amendment 138

### Proposal for a directive

#### Article 25 – paragraph 4 – point a

*Text proposed by the Commission*

(a) impose monetary ***and/or time*** limits on the provision of free legal assistance and representation, provided that such limits do not arbitrarily restrict access to legal assistance and representation;

*Amendment*

(a) impose monetary limits ***or time limits*** on the provision of free legal assistance and representation, provided that such limits do not arbitrarily restrict access to ***free*** legal assistance and representation ***or hinder the applicant's effective access to justice***;

## Amendment 139

### Proposal for a directive

#### Article 25 – paragraph 4 – point b

*Text proposed by the Commission*

(b) provide that, as regards fees and other costs, the treatment of applicants shall not be ***more favorable*** than the treatment generally ***accorded*** to their nationals in matters pertaining to legal assistance.

*Amendment*

(b) provide that, 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.

## Amendment 140

### Proposal for a directive

#### Article 25 – paragraph 5

*Text proposed by the Commission*

5. Member States may ***demand to be reimbursed wholly or partially for*** any costs ***granted if and when the applicant's financial situation has improved considerably or if the decision to grant such costs*** was taken on the basis of false information supplied by the applicant.

*Amendment*

5. Member States may ***request total or partial reimbursement of*** any costs ***incurred where the decision to provide free legal assistance and representation*** was taken on the basis of false information supplied by the applicant.

## Amendment 141

### Proposal for a directive Article 25 – paragraph 6

*Text proposed by the Commission*

6. *Procedures for access to* legal assistance and representation shall ***be laid down in national law.***

*Amendment*

6. ***Member States shall lay down specific procedural rules governing how requests for free*** legal assistance and representation ***are filed and processed, or they shall apply the existing rules for domestic claims of a similar nature, provided that those rules do not render access to free legal assistance and representation impossible or excessively difficult.***

## Amendment 142

### Proposal for a directive Article 28 – paragraph 1

*Text proposed by the Commission*

1. Each Member State shall ***notify the Commission of the authorities responsible for fulfilling the obligations arising under this Directive. Member States shall inform the Commission of any changes in the identity of such authorities.***

*Amendment*

1. Each Member State shall ***draw up, in cooperation with local and regional authorities, civil society and international organisations, a contingency plan for situations of disproportionate pressure setting out the planned measures to be taken to ensure an adequate reception of applicants for international protection.***

## Amendment 143

### Proposal for a directive Article 29 – paragraph 1

*Text proposed by the Commission*

1. Member States shall take

*Amendment*

1. Member States shall take

appropriate measures to ensure that authorities and other organisations implementing this Directive have received the necessary training with respect to the needs of both male and female applicants. To that end, Member States shall integrate the European asylum curriculum developed by the European Union Agency for Asylum into the training of their personnel in accordance with Regulation (EU) No XXX/XXX [Regulation on the European Union Agency for Asylum].

appropriate measures to ensure that authorities and other organisations implementing this Directive have received the necessary training with respect to the needs of both male and female applicants, ***including minors***. To that end, ***Member States shall make adequate funding available to local and regional authorities and international and civil society organisations, including by giving local and regional authorities the possibility to access the Asylum Migration and Integration Fund by means of national programmes***. Member States shall integrate the European asylum curriculum developed by the European Union Agency for Asylum into the training of their personnel in accordance with Regulation (EU) No XXX/XXX [Regulation on the European Union Agency for Asylum]. ***They shall ensure that such training places particular importance on active identification of specific reception needs (the Age Gender and Diversity Approach) and adequate prevention and response activities with respect to sexual and gender-based violence and bias-motivated violence, from the date when the application for international protection was made. Member States shall ensure that personnel take into consideration information published by the European Asylum Support Office (EASO), such as the EASO Tool for Identification of persons with specific needs when developing such training.***

## **Amendment 144**

### **Proposal for a directive**

#### **Article 30 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

By [***three years*** after the entry into force of this Directive] at the latest, and at least

*Amendment*

By [***one year*** after the entry into force of this Directive] at the latest, and at least

every five years thereafter, the Commission shall present a report to the European Parliament and the Council on the application of this Directive and shall propose any amendments that are necessary.

every three years thereafter, the Commission shall present a report to the European Parliament and the Council on the application of this Directive and shall propose any amendments that are necessary.

## **Amendment 145**

### **Proposal for a directive**

#### **Article 30 – paragraph 1 – subparagraph 2**

##### *Text proposed by the Commission*

Member States shall at the request of the Commission send the necessary information for drawing up the report by [***two years*** after the entry into force of this Directive] and every ***five years*** thereafter.

##### *Amendment*

Member States shall at the request of the Commission send the necessary information for drawing up the report by [***six months*** after the entry into force of this Directive] and every ***two years*** thereafter.

## **EXPLANATORY STATEMENT**

In 2016 the European Commission proposed a reform of the Common European Asylum System (CEAS) that included changing some directives into fully harmonised regulations and for reception conditions the Commissions proposed a recast of the existing directive with some further harmonisation. The Rapporteur accepts the Commission's choice of legal instrument but considers that further harmonisation is necessary within the directive.

The main elements of the Commission's recast proposal aim to reduce asylum applicants leaving the Member State responsible for their application (secondary movements) by proposing punitive measures and increase integration of asylum applicants. The draft report of the Rapporteur also focusses on reducing secondary movement but is based on incentives and not punitive measures. As to integration, the Rapporteur proposes access to language courses and the labour market from day one of the application, to increase the applicant's self-reliance and chances of integration in the host society. A further key element in the draft report aims to ensure that the fundamental rights of all asylum applicants are safeguarded and in order to achieve that the Rapporteur clarifies provisions for applicants with specific needs.

### **Reducing Secondary Movements**

The Rapporteur does not share the punitive approach put forward in the Commission proposal but does accept that measures need to be taken to de-incentivise asylum applicants from leaving the Member State responsible for their application. The Rapporteur is of the view that the provision of high quality reception conditions, at the same level throughout the EU will be the most important factor in preventing secondary movements.

The draft report maintains the possibility for freedom of movement to be restricted in certain specific cases to prevent secondary movement but these cases have been limited and a number of safeguards, such as judicial review, have been added. The Rapporteur clarifies the definition of absconding and deletes the possibility to provide a lower standard of reception conditions (dignified standard of living). The draft report greatly restricts the use of detention and this will only be possible with the highest safeguards and under the strictest conditions.

### **Integration**

The Rapporteur considers that applicants' self-reliance and chances of integration in the host society will be truly increased if they have access to the labour market and language courses from day one of the procedure.

The Commission proposes to reduce the maximum period of nine months for access to the labour market by applicants to six months. The Rapporteur proposes to provide for immediate access to the labour market and deletes the possibility of using a labour market test. The Rapporteur's proposal will mean that applicants whose applications are likely to be successful will be more self-reliant from the outset as they will be able to integrate effectively, learn the local language, and contribute to the host society.

The Rapporteur supports the Commission's proposal for equal treatment of asylum applicants with EU nationals regarding working conditions, education, vocational training and the recognition of diplomas. In addition, the Rapporteur proposes that Member States shall



provide language courses from the start of the application procedure to increase integration prospects for the applicant in the Member State where they are living

To increase integration and stability for the applicants, the Rapporteur introduces the obligation for Member States to find appropriate housing from the outset to avoid applicants being rehoused in multiple reception centres and temporary accommodation.

### **Safeguarding fundamental rights**

The Rapporteur believes that all asylum applicants should be safe during their application process and a key to achieving that by making sure the fundamental rights of all applicants are safeguarded within the reception process. Extra measures are necessary to protect the fundamental rights for applicants with special needs and the Rapporteur welcomes the Commission's proposals for specific rules for applicants with special needs, which are further clarified in the draft report.

The Rapporteur underlines the importance of quick identification of persons with special reception needs and monitoring throughout the application procedure, training of personnel on the identification of persons with special reception needs, child-friendly reception conditions as well as full access to necessary healthcare, including sexual and reproductive health services and mental healthcare.

In addition, the Rapporteur's proposal stresses the Member States' obligations under international law, the EU's common values as enshrined in Article 2 TEU and the Charter of Fundamental Rights of the European Union, United Nations Convention on the Rights of the Child and the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) to combat and prevent sexual and gender based violence, as well as all other forms of hate crime when providing accommodation.

## ANNEX: LETTER FROM THE COMMITTEE ON LEGAL AFFAIRS

Ref. D(2017)9399

Claude Moraes  
Chair, Committee on Civil Liberties, Justice and Home Affairs  
ASP 13G205  
Brussels

**Subject:** Proposal for a directive of the European Parliament and of the Council laying down standards for the reception of applicants for international protection (recast) (COM(2016)0465 – C8-0323/2016 – 2016/0222(COD))

Dear Chair,

The Committee on Legal Affairs has examined the proposal referred to above, pursuant to Rule 104 on Recasting, as introduced into the Parliament's Rules of Procedure.

Paragraph 3 of that Rule reads as follows:

*“If the committee responsible for legal affairs considers that the proposal does not entail any substantive changes other than those identified as such in the proposal, it shall inform the committee responsible.*

*In such a case, over and above the conditions laid down in Rules 169 and 170, amendments shall be admissible within the committee responsible for the subject-matter only if they concern those parts of the proposal which contain changes.*

*However, amendments to parts of the proposal which remain unchanged may, by way of exception and on a case-by-case basis, be accepted by the Chair of the committee responsible for the subject matter if he or she considers that this is necessary for pressing reasons relating to the internal logic of the text or because the amendments are inextricably linked to other admissible amendments. Such reasons must be stated in a written justification to the amendments.”*

Following the opinion of the Legal Service, whose representatives participated in the meetings of the Consultative Working Party examining the recast proposal, and in keeping with the recommendations of the rapporteur, the Committee on Legal Affairs considers that the proposal in question does not include any substantive changes other than those identified as such in the proposal and that, as regards the codification of the unchanged provisions of the earlier acts with those changes, the proposal contains a straightforward codification of the existing texts, without any change in their substance.

In conclusion, at its meeting of 28 February 2017, the Committee on Legal Affairs decided by

21 votes in favour and 0 votes against and 2 abstentions<sup>1</sup> to recommend that the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, proceed to examine the above proposal in accordance with Rule 104.

Yours sincerely,

Pavel Svoboda

*Encl.: Opinion of the Consultative Working Party.*

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<sup>1</sup> Max Andersson, Joëlle Bergeron, Marie-Christine Boutonnet, Daniel Buda, Jean-Marie Cavada, Kostas Chrysogonos, Therese Comodini Cachia, Pál Csáky, Mady Delvaux, Laura Ferrara, Evelyne Gebhardt, Sylvia-Yvonne Kaufmann, Gilles Lebreton, António Marinho e Pinto, Jiří Maštálka, Emil Radev, Julia Reda, Evelyn Regner, Virginie Rozière, Pavel Svoboda, Axel Voss, Tiemo Wölken, Tadeusz Zwiefka.

**ANNEX: OPINION OF THE CONSULTATIVE WORKING PARTY OF THE LEGAL SERVICES OF THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION**



CONSULTATIVE WORKING PARTY  
OF THE LEGAL SERVICES

Brussels, 12 January 2017

**OPINION**

**FOR THE ATTENTION OF THE EUROPEAN PARLIAMENT  
THE COUNCIL  
THE COMMISSION**

**Proposal for a directive of the European Parliament and of the Council laying down standards for the reception of applicants for international protection (recast)  
COM(2016)465 of 13.7.2016 – 2016/0222(COD)**

Having regard to the Inter-institutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts, and in particular to point 9 thereof, the Consultative Working Party consisting of the respective legal services of the European Parliament, the Council and the Commission met on 22 and 29 September 2016 for the purpose of examining, among others, the aforementioned proposal submitted by the Commission.

At those meetings<sup>1</sup>, an examination of the proposal for a Directive of the European Parliament and of the Council recasting Directive 2013/33/EU of the European Parliament and of the Council of 29 June 2013 laying down standards for the reception of applicants for international protection resulted in the Consultative Working Party's concluding, without dissent, that the proposal does not comprise any substantive amendments other than those identified as such. The Working Party also concluded, as regards the codification of the unchanged provisions of the earlier act with those substantive amendments, that the proposal contains a straightforward codification of the existing legal text, without any change in its substance.

F. DREXLER

H. LEGAL

L. ROMERO REQUENA

Jurisconsult

Jurisconsult

Director General

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<sup>1</sup> The Consultative Working Party worked on the basis of the English language version of the proposal, being the master-copy language version of the text under discussion.

12.4.2017

## **OPINION OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS**

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a directive of the European Parliament and of the Council laying down standards for the reception of applicants for international protection (recast)  
(COM(2016)0465 – C8-0323/2016 – 2016/0222(COD))

Rapporteur: Brando Benifei

### **SHORT JUSTIFICATION**

The proposed reform of the Common European Asylum System aims at shaping a more sustainable, fairer and holistic EU migration policy, based on the principles of fair sharing of responsibility and solidarity among Member States.

The quality of reception standards is fundamental to the increase of the chances for asylum seekers and refugees, arriving in unprecedented numbers, to effectively integrate and therefore reduce their dependency on the host country. However, the sustainability of the whole process depends upon a series of essential elements, such as a well-functioning legislative framework and efficient administrations; a decisive political commitment by national and European political and institutional actors; social cohesion, inclusiveness and the socio-economic well-being of our countries.

With a view to this, all new rules on reception must be future-proof, meaning designed to work outside the emergency logic which has been defining the response to the refugee crisis up until now. This is necessary in order to create the conditions for turning the challenge of integration into an opportunity and a resource for society in the long term. At the same time, reforms must also be realistic, present-proof, meaning capable of taking into due consideration the macroeconomic situation of our continent after years of protracted crisis.

In the view of the rapporteur, the goal of this EMPL opinion should be to present an overall assessment on whether the above-mentioned conditions are properly balanced in the legislative proposal under scrutiny and offer some adjustments accordingly. Such assessment is only partially positive.

The rapporteur welcomes the ambitious set of proposals with regards access to employment put forward by the Commission. Lowering the threshold for accessing the labour market to applicants of international protection to six months is a substantial improvement to current rules, and is coherent with the position of the European Parliament as expressed in its

resolution on the social inclusion and integration of refugees into the labour market. He also supports encouraging Member States to accelerate further such access whereby applicants have good prospects of integration. By contrast, he is not in favour of the possibility to deny access when they fall under accelerated procedure and, therefore, under the assumption of an unfounded claim. Such a provision would constitute, in his opinion, a violation of article 3 of the Geneva Convention and its spirit. The rapporteur also welcomes the clarifications on the need to ensure that such access is effective, and proposes additions to the text by mentioning some of the main examples of restrictive conditions observed in the Member States, namely sectoral and working time restrictions and excessive administrative formalities.

New provisions for applicants with special reception needs are a very significant improvement to the current situation, and the rapporteur fully endorses all proposals aimed at ensuring that Member States systematically assess whether an applicant has special reception needs.

On a negative note, the rapporteur strongly disagrees with the measures aimed at reducing secondary movements by denying material reception conditions to applicants of international protection if they are not in the Member State responsible for their application under currently revised asylum rules. In his opinion, this represents an unacceptable reduction of refugees' rights compared to the present, clearly contrary to the jurisprudence of European Court of Justice. Besides, this seems to suggest that secondary movements are mostly driven by the different quality of reception standards among Member States. Indeed, reception standards shall be improved throughout the EU. However, the strong correlation between, on the one hand, the socio-economic situation of the Member States, the employment prospects they may offer and the overall quality of their services and, on the other, the refugees' individual asylum preferences, seems the predominant factor determining such secondary movements. Some countries have been disproportionately exposed to the arrivals for geographical reasons, while also bearing - again disproportionately - the effects of the economic crisis, which has resulted in the shrinking of available public resources for reception measures. High unemployment and dire socioeconomic conditions in a Member State represent an impediment to the very objective of the reform, as they reduce the integration prospects of applicants. It also risks increasing competition within the labour market *vis-à-vis* nationals and EU citizens, which might lead to a further rise of anti-immigrant sentiments. The attempt of blocking secondary movements with a punitive approach against asylum seekers, instead of ensuring an orderly management of migration flows, would only exacerbate already difficult situations. Such an approach, rather than a rational and functional answer to a very complex problem, seems to denote a continued lack of mutual trust and the unwillingness to establish a truly fair, genuinely European, asylum system.

Although outside the recast exercise, the rapporteur proposes a modification to the rules on detention: minors and unaccompanied minors shall never be detained

## AMENDMENTS

The Committee on Employment and Social Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

## Amendment 1

### Proposal for a directive

#### Recital 3

##### *Text proposed by the Commission*

(3) The Common European Asylum System (CEAS) is based on a system for determining the Member State responsible for applicants for international protection and common standards for asylum procedures, reception conditions and procedures and rights of beneficiaries of international protection. Notwithstanding the significant progress that has been made in the development of the CEAS, there are still notable differences between the Member States with regard to the types of procedures used, the reception conditions provided to applicants, the recognition rates and the type of protection granted to beneficiaries of international protection. These divergences ***are important drivers of secondary movement and*** undermine the objective of ensuring ***that*** all applicants ***are equally treated*** wherever they apply in the Union.

##### *Amendment*

(3) The Common European Asylum System (CEAS) is based on a system for determining the Member State responsible for applicants for international protection and common standards for asylum procedures, reception conditions and procedures and rights of beneficiaries of international protection. Notwithstanding the significant progress that has been made in the development of the CEAS, there are still notable differences between the Member States with regard to the types of procedures used, the reception conditions provided to applicants, the recognition rates and the type of protection granted to beneficiaries of international protection. These divergences, ***together with the fact that there are very different macroeconomic and labour market situations in the Member States,*** undermine the objective of ensuring ***standardised reception conditions for*** all applicants wherever they apply in the Union.

## Amendment 2

### Proposal for a directive

#### Recital 5

##### *Text proposed by the Commission*

(5) Reception conditions continue to vary considerably between Member States both in terms of how the reception system is organised and in terms of the standards provided to applicants. The persistent problems in ensuring adherence to the reception standards required for a dignified

##### *Amendment*

(5) Reception conditions continue to vary considerably between Member States both in terms of how the reception system is organised and in terms of the standards provided to applicants. The persistent problems in ensuring adherence to the reception standards required for a dignified

treatment of applicants in some Member States has contributed to a disproportionate burden falling on a few Member States with generally high reception standards which are then under pressure to reduce their standards. More *equal* reception standards set at an appropriate level across all Member States will contribute to a more dignified treatment and fairer distribution of applicants across the EU.

treatment of applicants in some Member States has contributed to a disproportionate burden falling on a few Member States with generally high reception standards which are then under pressure to reduce their standards. *At the same time, frontline Member States are disproportionately facing the weight of large arrivals of migrants and asylum seekers, putting their reception means under heavy pressure and risking a further deterioration in the quality of the standards offered.* More *harmonised* reception standards set at an appropriate level across all Member States will contribute to a more dignified treatment and fairer distribution of applicants across the EU.

### Amendment 3

#### Proposal for a directive Recital 8

*Text proposed by the Commission*

(8) *Where an applicant is present in another Member State from the one in which he or she is required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation], the applicant should not be entitled to the reception conditions set out in Articles 14 to 17.*

*Amendment*

*deleted*

### Amendment 4

#### Proposal for a directive Recital 11

*Text proposed by the Commission*

(11) In order to ensure that applicants are aware of the consequences of absconding, Member States should inform applicants in a uniform manner, as soon as possible and at the latest when they lodge

*Amendment*

(11) In order to ensure that applicants are aware of the consequences of absconding, Member States should inform applicants in a uniform manner, as soon as possible and at the latest when they lodge



their application, of all the obligations with which applicants must comply relating to reception conditions, including the circumstances under which the granting of material reception conditions may be restricted and of any benefits.

their application, of all the obligations with which applicants must comply relating to reception conditions, including the circumstances under which the granting of material reception conditions may be restricted and of any benefits. ***Member States should provide this information through appropriate interpretation and translation wherever necessary so that applicants fully understand and are aware of their rights and of the legal requirements that they must abide by.***

## Amendment 5

### Proposal for a directive Recital 12

#### *Text proposed by the Commission*

(12) Harmonised EU rules on the documents to be issued to applicants make it more difficult for applicants to move in an unauthorised manner within the Union. ***It needs to be clarified that Member States should only provide applicants with a travel document when serious humanitarian or other imperative reasons arise.*** The validity of travel documents should ***also*** be limited to the purpose and duration needed for the reason for which they are issued. ***Serious humanitarian reasons*** could for instance be ***considered when*** an applicant needs to travel to another State for medical treatment or to visit relatives in particular cases, such as for visits to close relatives who are seriously ill, or to attend marriages or funerals of close relatives. Other ***imperative*** reasons could include situations where applicants who have been granted access to the labour market are required to perform essential travel for work purposes, where applicants are required to travel as part of study curricula or where minors are travelling with foster families.

#### *Amendment*

(12) Harmonised EU rules on the documents to be issued to applicants make it more difficult for applicants to move in an unauthorised manner within the Union. The validity of travel documents should be limited to the purpose and duration needed for the reason for which they are issued. ***Such a reason*** could for instance be ***that*** an applicant needs to travel to another State for medical treatment or to visit relatives in particular cases, such as for visits to close relatives who are seriously ill, or to attend marriages or funerals of close relatives. Other reasons could include situations where applicants who have been granted access to the labour market are required to perform essential travel for work purposes, where applicants are required to travel as part of study curricula or where minors are travelling with foster families.

## Amendment 6

### Proposal for a directive Recital 13

*Text proposed by the Commission*

(13) ***Applicants do not have the right to choose the Member State of application. An applicant **must apply** for international protection in the Member State either of first entry or, in case of legal presence, in the Member State of legal stay or residence. An applicant who has not complied with this obligation is less likely, following a determination of the Member State responsible under Regulation (EU) No XXX/XXX [Dublin Regulation], to be allowed to stay in the Member State where the application was made and consequently more likely to abscond. His or her whereabouts should therefore be closely monitored.***

*Amendment*

(13) An applicant ***who has deliberately not applied*** for international protection in the Member State either of first entry or, in case of legal presence, in the Member State of legal stay or residence, is less likely to be allowed to stay in the Member State where the application was made.

## Amendment 7

### Proposal for a directive Recital 15

*Text proposed by the Commission*

(15) ***The fact that an applicant has previously absconded to another Member State is an important factor when assessing the risk that the applicant may abscond. To ensure that the applicant does not abscond again and remains available to the competent authorities, once the applicant has been sent back to the Member State where he or she is required to be present, his or her whereabouts should therefore be closely monitored.***

*Amendment*

***deleted***

## Amendment 8

### Proposal for a directive

## Recital 16

### *Text proposed by the Commission*

(16) For reasons of public interest or public order, ***for the swift processing and effective monitoring of his or her application for international protection, for the swift processing and effective monitoring of his or her procedure for determining the Member State responsible in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation] or in order to effectively prevent the applicant from absconding***, Member States should, ***where necessary***, assign the applicant residence in a specific place, such as an accommodation centre, a private house, flat, hotel or other premises adapted for housing applicants. ***Such a decision may be necessary to effectively prevent the applicant from absconding in particular in cases where the applicant has not complied with the obligations to: make an application in the Member State of first irregular or legal entry; to remain in the Member State where he or she is required to be present; or in cases where the applicant has been sent back to the Member State where he or she is required to be present after having absconded to another Member State.*** In case the applicant is entitled to material reception conditions, such material reception conditions should also be provided ***subject*** to the applicant residing in this specific place.

### *Amendment*

(16) For ***duly justified serious*** reasons of public interest or public order, Member States should ***be able to*** assign the applicant residence in a specific place, ***where necessary***, such as an ***open*** accommodation centre, a private house, flat, hotel or other premises adapted for housing applicants. In case the applicant is entitled to material reception conditions, such material reception conditions should also be provided to the applicant residing in this specific place.

## Amendment 9

### Proposal for a directive

#### Recital 18

### *Text proposed by the Commission*

(18) All decisions restricting an applicant's freedom of movement need to be based on the individual behaviour and

### *Amendment*

(18) All decisions restricting an applicant's freedom of movement ***always*** need to be ***motivated by the competent***

particular situation of the person concerned, taking into account any special reception needs of applicants and the principle of proportionality. Applicants must be duly informed of such decisions and of the consequences of non-compliance.

**authorities and** based on the individual behaviour and particular situation of the person concerned, taking into account any special reception needs of applicants and the principle of proportionality. Applicants must be duly informed of such decisions and of the consequences of non-compliance.

## **Amendment 10**

### **Proposal for a directive Recital 19**

#### *Text proposed by the Commission*

(19) In view of the serious consequences for applicants who have absconded or who are considered to be at risk of absconding, the meaning of absconding should be defined in view of encompassing both a deliberate action to avoid the applicable asylum procedures and the factual circumstance of not remaining available to the relevant authorities, ***including by leaving the territory where the applicant is required to be present.***

#### *Amendment*

(19) In view of the serious consequences for applicants who have absconded or who are considered to be at risk of absconding, the meaning of absconding should be defined in view of encompassing both a deliberate action to avoid the applicable asylum procedures and the factual circumstance of not remaining available to the relevant authorities.

## **Amendment 11**

### **Proposal for a directive Recital 30**

#### *Text proposed by the Commission*

(30) In applying this Directive, Member States should seek to ensure full compliance with the principles of the best interests of the child and of family unity, in accordance with the Charter of Fundamental Rights of the European Union, the 1989 United Nations Convention on the Rights of the Child and the European Convention for the Protection of Human Rights and Fundamental Freedoms respectively. Reception

#### *Amendment*

(30) In applying this Directive, Member States should seek to ensure full compliance with the principles of the best interests of the child and of family unity, in accordance with the Charter of Fundamental Rights of the European Union, the 1989 United Nations Convention on the Rights of the Child and the European Convention for the Protection of Human Rights and Fundamental Freedoms respectively. Reception

conditions need to be adapted to the specific situation of minors, whether unaccompanied or within families, with due regard to their security, physical and emotional care and provided in a manner that *encourages* their general development.

conditions need to be adapted to the specific situation of minors, whether unaccompanied or within families, with due regard to their security, ***housing and nutrition***, physical and emotional care, and ***education, which should all be*** provided in a manner that *effectively allows for* their general development.

## Amendment 12

### Proposal for a directive Recital 30 a (new)

*Text proposed by the Commission*

*Amendment*

***(30a) Unaccompanied minors should be adequately protected whilst in the Union, in particular by means of identifying unaccompanied children upon disembarkation, registering them, carrying out a preliminary risk assessment and ensuring referral to relevant child protection services.***

## Amendment 13

### Proposal for a directive Recital 31

*Text proposed by the Commission*

*Amendment*

(31) Member States should ensure that applicants receive the necessary health care which should include, at least, emergency care and essential treatment of illnesses, including of *serious* mental disorders. To respond to public health concerns with regard to disease prevention and safeguard the health of individual applicants, applicants' access to health care should also include preventive medical treatment, such as vaccinations. Member States may require medical screening for applicants on public health grounds. The results of medical screening should not influence the

(31) Member States should ensure that applicants receive the necessary health care which should include, at least, ***maternity medical aid and sexual and reproductive health services***, emergency care and essential treatment of illnesses, including of mental disorders. To respond to public health concerns with regard to disease prevention and safeguard the health of individual applicants, applicants' access to health care should also include preventive medical treatment, such as vaccinations. Member States may require medical screening for applicants on public health

assessment of applications for international protection, which should always be carried out objectively, impartially and on an individual basis in line with Regulation (EU) No XXX/XXX [Procedures Regulation].

grounds. The results of medical screening should not influence the assessment of applications for international protection, which should always be carried out objectively, impartially and on an individual basis in line with Regulation (EU) No XXX/XXX [Procedures Regulation].

## Amendment 14

### Proposal for a directive Recital 32

#### *Text proposed by the Commission*

(32) ***An applicant's entitlement to material reception conditions under this Directive may be curtailed in certain circumstances such as where an applicant has absconded to another Member State from the Member State where he or she is required to be present. However,*** Member States should in all circumstances ensure access to health care and a dignified standard of living for applicants in line with the Charter of Fundamental Rights of the European Union and the United Nations Convention on the Rights of the Child, in particular by providing for the applicant's subsistence and basic needs both in terms of physical safety and dignity and in terms of interpersonal relationships, with due regard to the inherent vulnerabilities of the person as applicant for international protection and that of his or her family or caretaker. Due regard must also be given to applicants with special reception needs. The specific needs of children, in particular with regard to respect for the child's right to education ***and*** access to healthcare have to be taken into account. ***When a minor is in a Member State other than the one in which he or she is required to be present, Member States should provide the minor with access to suitable educational***

#### *Amendment*

(32) Member States should in all circumstances ensure access to health care and a dignified standard of living for applicants in line with the Charter of Fundamental Rights of the European Union and the United Nations Convention on the Rights of the Child, in particular by providing for the applicant's subsistence and basic needs both in terms of physical safety and dignity and in terms of interpersonal relationships, with due regard to the inherent vulnerabilities of the person as applicant for international protection and that of his or her family or caretaker. Due regard must also be given to applicants with special reception needs. The specific needs of children, in particular with regard to respect for the child's right ***and access*** to education, ***as well as*** access to healthcare ***and childcare***, have to be taken into account ***by the Member States***. The specific needs of women applicants who have experienced gender-based harm should be taken into account, including via ensuring access, at different stages of the asylum procedure, to medical care, legal support, and to appropriate trauma counselling and psycho-social care. ***Consideration should be given to the fact that any applicant for asylum may have experienced physical violence, including***

*activities pending the transfer to the Member State responsible.* The specific needs of women applicants who have experienced gender-based harm should be taken into account, including via ensuring access, at different stages of the asylum procedure, to medical care, legal support, and to appropriate trauma counselling and psycho-social care.

*sexual violence, and /or mental trauma and will therefore need appropriate care.*

## Amendment 15

### Proposal for a directive Recital 34

#### *Text proposed by the Commission*

(34) In order to promote the self-sufficiency of applicants and to limit wide discrepancies between Member States, it is essential to provide clear rules on the applicants' access to the labour market and to ensure that such access is effective, by not imposing conditions that effectively hinder an applicant from seeking employment. Labour market tests used to give priority to nationals or to other Union citizens or to third-country nationals legally resident in the Member State concerned should not hinder effective access for applicants to the labour market and should be implemented without prejudice to the principle of preference for Union citizens as expressed in the relevant provisions of the applicable Acts of Accession.

#### *Amendment*

(34) In order to promote the self-sufficiency of applicants and to limit wide discrepancies between Member States, it is essential to provide clear rules on the applicants' access to the labour market and to ensure that such access is effective, by not imposing conditions, ***including sector restrictions, working time restrictions and unduly strict administrative formalities,*** that effectively hinder an applicant from seeking employment. ***Member States should also take effective steps to ensure that the entry of applicants for international protection into the labour market is not achieved through a lowering of applicable salaries, which could then lead to wage dumping practices. In order to increase integration prospects and self-sufficiency of applicants, immediate access to the labour market and to language courses should be encouraged from the date when the application for international protection was lodged.*** Labour market tests used to give priority to nationals or to other Union citizens or to third-country nationals legally resident in the Member State concerned should not hinder effective access for applicants to the labour market and should be implemented without prejudice to the principle of

preference for Union citizens as expressed in the relevant provisions of the applicable Acts of Accession.

## Amendment 16

### Proposal for a directive Recital 35

*Text proposed by the Commission*

*Amendment*

**(35) The maximum time frame for access to the labour market should be aligned with the duration of the examination procedure on the merits. In order to increase integration prospects and self-sufficiency of applicants, earlier access to the labour market is encouraged where the application is likely to be well-founded, including when its examination has been prioritised in accordance with Regulation (EU) No XXX/XXX [Procedures Regulation]. Member States should therefore consider reducing that time period as much as possible with a view to ensuring that applicants have access to the labour market no later than 3 months from the date when the application was lodged in cases where the application is likely to be well-founded. Member States should however not grant access to the labour market to applicants whose application for international protection is likely to be unfounded and for which an accelerated examination procedure is applied.**

**deleted**

## Amendment 17

### Proposal for a directive Recital 36

*Text proposed by the Commission*

*Amendment*

**(36) Once applicants are granted access to the labour market, they should *be entitled to a common set of rights based***

**(36) Once applicants are granted access to the labour market, they should *enjoy* equal treatment with nationals *as regards***



*on* equal treatment with nationals. Working conditions ***should cover at least*** pay and dismissal, health and safety requirements at the workplace, working time and leave, taking into account collective agreements in force. Applicants should also enjoy equal treatment as regards freedom of association and affiliation, education and vocational training, the recognition of professional qualifications and social security.

working conditions, ***including*** pay and dismissal, health and safety requirements at the workplace, working time and leave, taking into account collective agreements in force. Applicants should also enjoy equal treatment as regards freedom of association and affiliation, education and ***employment-related education opportunities for adults, including language learning and training courses for upgrading skills and practical workplace experience, advice services afforded by employment offices,*** vocational training, the recognition of professional qualifications and social security.

## **Amendment 18**

### **Proposal for a directive**

#### **Recital 39**

*Text proposed by the Commission*

*Amendment*

***(39) Due to the possibly temporary nature of the stay of applicants and without prejudice to Regulation (EU) No 1231/2010 of the European Parliament and of the Council, Member States should be able to exclude family benefits and unemployment benefits from equal treatment between applicants and their own nationals and should be able to limit the application of equal treatment in relation to education and vocational training. The right to freedom of association and affiliation may also be limited by excluding applicants from taking part in the management of certain bodies and from holding a public office.***

***deleted***

#### **Justification**

*Basing restrictions on the “possible temporary nature of the stay of applicants” fails to afford asylum seekers - who are presumptive refugees throughout the examination of their claim - “the most favourable treatment accorded to nations of a foreign country in the same circumstances”, which contravenes Article 17 of the Refugee Convention.*

## Amendment 19

### Proposal for a directive

#### Article 2 – paragraph 1 – point 10

##### *Text proposed by the Commission*

(10) ‘absconding’: means the action by **which** an applicant, **in order** to avoid asylum procedures, **either leaves the territory where he or she is obliged to be present in accordance with Regulation (EU) No XXX/XXX<sup>32</sup> [Dublin Regulation] or does not remain** available to the competent authorities or to the court or tribunal;

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<sup>32</sup> OJ C [...], [...], p. [...].

##### *Amendment*

(10) ‘absconding’: means the **deliberate** action by an applicant to avoid **the** asylum procedures **and not to remain** available to the competent authorities or to the court or tribunal;

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<sup>32</sup> OJ C [...], [...], p. [...].

## Amendment 20

### Proposal for a directive

#### Article 2 – paragraph 1 – point 11

##### *Text proposed by the Commission*

(11) ‘risk of absconding’: means the existence of reasons in an individual case, which are based on objective criteria defined by national law, to believe that an applicant may abscond;

##### *Amendment*

(11) ‘risk of absconding’: means the existence of **specific** reasons in an individual case, which are based on objective **and specific** criteria defined by national law **in accordance with guidelines of the European Union Agency for Asylum**, to believe that an applicant may abscond;

## Amendment 21

### Proposal for a directive

#### Article 2 – paragraph 1 – point 13

##### *Text proposed by the Commission*

(13) ‘applicant with special reception needs’: means an applicant who is in need of special guarantees in order to benefit from the rights and comply with the

##### *Amendment*

(13) ‘applicant with special reception needs’: means an applicant who is in need of special guarantees in order to benefit from the rights and comply with the

obligations provided for in this Directive , such as applicants who are minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation .

obligations provided for in this Directive , such as applicants who are minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and ***with mental health issues and*** persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation .

## Amendment 22

### Proposal for a directive

#### Article 5 – paragraph 1 – subparagraph 1

##### *Text proposed by the Commission*

Member States shall inform applicants, as soon as possible and at the latest when they are lodging their application for international protection, of any established benefits and of the obligations with which they must comply relating to reception conditions . They shall point out ***in the information provided that the applicant is not entitled to the*** reception conditions set out in ***Articles 14 to 17 of this Directive as stated in Article 17a of the same Directive in any Member State other than where he or she is required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation]***.

##### *Amendment*

Member States shall inform applicants, as soon as possible and at the latest when they are lodging their application for international protection, ***at least*** of any established benefits and of the obligations with which they must comply relating to reception conditions. They shall ***also*** point out ***to applicants all relevant information concerning the possible replacement, reduction or withdrawal of material*** reception conditions ***as*** set out in ***Article 19*** of this Directive.

## Amendment 23

### Proposal for a directive

#### Article 6 – paragraph 1

##### *Text proposed by the Commission*

Member States shall provide applicants with a travel document ***only when serious humanitarian or other imperative*** reasons ***arise that require their presence in***

##### *Amendment*

Member States shall provide applicants with a travel document ***without delay, when the presence of the applicant is required in another Member State, in***

another State. The validity of the travel document shall be limited to the purpose and duration needed for the reason for which it is issued.

*particular for reasons such as when an applicant needs to travel to another State for medical treatment or to visit relatives in particular cases, such as for visits to close relatives who are seriously ill, or to attend the marriages or funerals of close relatives. Other such reasons include situations where applicants who have been granted access to the labour market are required to perform essential travel for work purposes, where applicants are required to travel as part of study curricula or where minors are travelling with foster families.* The validity of the travel document shall be limited to the purpose and duration needed for the reason for which it is issued.

## Amendment 24

### Proposal for a directive

#### Article 6 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

*Member States shall not impose unnecessary or disproportionate documentation or other administrative requirements on applicants before granting them the rights to which they are entitled under this Directive for the sole reason that they are applicants for international protection.*

## Amendment 25

### Proposal for a directive

#### Article 7 – paragraph 2 – subparagraph 1 – introductory part

*Text proposed by the Commission*

*Amendment*

2. Member States *shall* where necessary decide on the residence of an applicant in *a* specific *place* for any of the following reasons:

2. Member States *may*, where necessary, *proportionate and duly justified*, decide on the residence of an applicant in *an open reception centre or* specific *accommodation* for any of the

following reasons:

## Amendment 26

### Proposal for a directive

#### Article 7 – paragraph 2 – subparagraph 1 – point d – indent 1

##### *Text proposed by the Commission*

- for applicants who have not complied with the obligation to make an application in the first Member State of entry as set out in Article [4(1)] of Regulation (EU) No XXX/XXX [Dublin Regulation] **and** have travelled to another Member State without adequate justification **and made an application there**; or

##### *Amendment*

- for applicants who have **deliberately** not complied with the obligation to make an application in the first Member State of entry as set out in Article [4(1)] of Regulation (EU) No XXX/XXX [Dublin Regulation] **or** have travelled to another Member State without adequate justification; or

## Amendment 27

### Proposal for a directive

#### Article 7 – paragraph 2 – subparagraph 1 – point d – indent 3

##### *Text proposed by the Commission*

- for applicants who have been sent back to the Member State where they are required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation] after having absconded **to another Member State**.

##### *Amendment*

- for applicants who have been sent back to the Member State where they are required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation] after having absconded.

## Amendment 28

### Proposal for a directive

#### Article 15 – paragraph 1 – subparagraph 1

##### *Text proposed by the Commission*

Member States shall ensure that applicants have access to the labour market no later than 6 months from the date when the application for international protection was lodged **if an administrative decision by the**

##### *Amendment*

Member States shall ensure that applicants have access to the labour market no later than 6 months from the date when the application for international protection was

*competent authority has not been taken and the delay cannot be attributed to the applicant.*

lodged.

## **Amendment 29**

### **Proposal for a directive**

#### **Article 15 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*Where the Member State has accelerated the examination on the merits of an application for international protection in accordance with points [(a) to (f)] of Article [40(1)] of Regulation (EU) No XXX/XXX [Procedures Regulation], access to the labour market shall not be granted.*

*deleted*

## **Amendment 30**

### **Proposal for a directive**

#### **Article 15 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*1a. Member States shall provide applicants effective access to language courses from the date when the application for international protection was lodged, in order to integrate them and enable them to capitalise fully on their formal qualification and thus contribute to society.*

## **Amendment 31**

### **Proposal for a directive**

#### **Article 15 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

*1b. Member States are encouraged to provide adequate training on employment*

*legislation and non-discrimination to applicants and to authorities, in order to avoid exploitation in the workplace by means of undeclared work practices and other forms of severe labour exploitation, and to avoid discrimination from the date when the application for international protection was lodged.*

## **Amendment 32**

### **Proposal for a directive**

#### **Article 15 – paragraph 3 – subparagraph 1 – point b**

*Text proposed by the Commission*

(b) freedom of association and affiliation and membership of an organisation representing workers or employers or of any organisation whose members are engaged in a specific occupation, including the benefits conferred by such organisations, without prejudice to the national provisions on public policy and public security;

*Amendment*

(b) freedom of association and affiliation and membership of an organisation representing workers or employers or of any organisation whose members are engaged in a specific occupation, including the ***rights and*** benefits conferred by such organisations, without prejudice to the national provisions on public policy and public security;

## **Amendment 33**

### **Proposal for a directive**

#### **Article 15 – paragraph 3 – subparagraph 1 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

(ca) ***education and employment-related education opportunities for adults, including training courses for upgrading skills and practical workplace experience;***

## **Amendment 34**

### **Proposal for a directive**

#### **Article 15 – paragraph 3 – subparagraph 1 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

*(da) access to educational and vocational guidance services afforded by employment services;*

## **Amendment 35**

### **Proposal for a directive**

#### **Article 15 – paragraph 3 – subparagraph 2 – point ii**

*Text proposed by the Commission*

*Amendment*

*(ii) pursuant to point (c) of this paragraph, to education and vocational training which is directly linked to a specific employment activity;* *deleted*

## **Amendment 36**

### **Proposal for a directive**

#### **Article 15 – paragraph 3 – subparagraph 2 – point iii**

*Text proposed by the Commission*

*Amendment*

*(iii) pursuant to point (e) of this paragraph by excluding family benefits and unemployment benefits, without prejudice to Regulation (EU) No 1231/2010.* *deleted*

## **Amendment 37**

### **Proposal for a directive**

#### **Article 15 – paragraph 3 – subparagraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

*The restrictions to equal treatment referred to in points (ii) and (iii) shall not be applied to minors, parents of minor children and legal or customary primary caregivers.*



## Justification

*Applying the restrictions set out in paragraph 3, points (ii) and (iii) of art. 15 to minors (or parents of minors and legal or customary primary caregivers, with a subsequent impact on minors) would amount to discrimination under the UN Convention on the Rights of the Child (art. 2(1) [non-discrimination] combined with articles 26(1) and (2) [right to social security] and 28(1)(b) [right to equal access to vocational education]. "Article 2 1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. "Article 26 1. States Parties shall recognise the right for every child to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law. 2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child..." "Article 28 1. States Parties recognise the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;"*

## Amendment 38

### Proposal for a directive Article 15 – paragraph 5

*Text proposed by the Commission*

*Amendment*

**5. Where applicants have been granted access to the labour market in accordance with paragraph 1, Member States shall ensure that the applicant's document as referred to in Article [29] of Regulation (EU) No XXX/XXX [Procedures Regulation] state that the applicant has permission to take up gainful employment.** **deleted**

## Amendment 39

### Proposal for a directive Article 15 – paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

**5a. Where access to the labour market**

*has been granted in accordance with paragraph 1, Member States shall also ensure that applicants are informed in writing, in a language they understand, of their employment rights in accordance with national law.*

#### **Amendment 40**

##### **Proposal for a directive**

##### **Article 16 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*1a. For minors and families with minor children, material reception conditions shall also ensure a standard of living adequate for the child's physical, mental, spiritual, moral and social development. In line with the principle of non-discrimination, minors and families with minor children falling within the scope of this Directive shall be entitled to access the same family services as national children and national families with children.*

#### **Justification**

*Children cannot only be provided with a standard of living that guarantees their subsistence and protects their health: they are entitled to a standard of living that promotes their development (physical, mental, spiritual etc.), thereby allowing them to plan for their future [article 27, UNCRC].*

#### **Amendment 41**

##### **Proposal for a directive**

##### **Article 16 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

*5. When assessing the resources of an applicant, when requiring an applicant to cover or contribute to the cost of the material reception conditions or when asking an applicant for a refund in accordance with paragraph 4, Member*

*5. When asking an applicant for a refund in accordance with paragraph 4, Member States shall observe the principle of proportionality **and** take into account the individual circumstances of the applicant and the need to respect his or her dignity or*

States shall observe the principle of proportionality. **Member States shall also** take into account the individual circumstances of the applicant and the need to respect his or her dignity or personal integrity, including the applicant's special reception needs. Member States shall in all circumstances ensure that the applicant is provided with a standard of living which guarantees his or her subsistence and protects his or her physical and mental health.

personal integrity, including the applicant's special reception needs. Member States shall in all circumstances ensure that the applicant is provided with a standard of living which guarantees his or her subsistence and protects his or her physical and mental health.

## **Amendment 42**

### **Proposal for a directive**

#### **Article 17 – paragraph 9 – subparagraph 2**

##### *Text proposed by the Commission*

Such different conditions shall in any circumstances ensure access to health care in accordance with Article 18 and **a dignified** standard of living for all applicants .

##### *Amendment*

Such different conditions shall in any circumstances ensure access to health care in accordance with Article 18 and **an adequate** standard of living for all applicants.

## **Amendment 43**

### **Proposal for a directive**

#### **Article 17 a**

##### *Text proposed by the Commission*

##### **Article 17a**

***Reception conditions in a Member State other than the one in which the applicant is required to be present***

***1. An applicant shall not be entitled to the reception conditions set out in Articles 14 to 17 in any Member State other than the one in which he or she is required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation].***

***2. Member States shall ensure a***

##### *Amendment*

***deleted***

*dignified standard of living for all applicants.*

3. *Pending the transfer under Regulation (EU) No XXX/XXX [Dublin Regulation] of a minor to the Member State responsible, Member States shall provide him or her with access to suitable educational activities.*

#### **Amendment 44**

##### **Proposal for a directive Article 18 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall ensure that applicants, *irrespective of where they are required to be present in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation]*, receive the necessary health care which shall include, at *least*, emergency care and essential treatment of illnesses, including of serious mental disorders.

*Amendment*

1. Member States shall ensure that applicants receive the necessary *physical and mental* health care which shall include, at *a minimum*, emergency care and essential treatment of illnesses, including of serious mental disorders.

#### **Amendment 45**

##### **Proposal for a directive Article 19 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. *With regard to applicants who are required to be present on their territory in accordance with Regulation (EU) No XXX/XXX [Dublin Regulation]*, Member States may, in the situations described in paragraph 2 :

*Amendment*

1. *On the basis of a decision by a competent authority*, Member States may, in the situations described in paragraph 2:

#### **Amendment 46**

##### **Proposal for a directive Article 19 – paragraph 2 – point g**

*Text proposed by the Commission*

*Amendment*

(g) has not complied with the obligation set out in Article [4(1)] of Regulation (EU) No XXX/XXX [Dublin Regulation] **and** has travelled to another Member State without adequate justification **and made an application there;** or

(g) has not complied with the obligation set out in Article [4(1)] of Regulation (EU) No XXX/XXX [Dublin Regulation] **or** has **deliberately** travelled to another Member State without adequate justification; or

**Amendment 47**

**Proposal for a directive**

**Article 19 – paragraph 2 – point g a (new)**

*Text proposed by the Commission*

*Amendment*

**(ga) has seriously breached the law of the Member State to which he or she has made an application for international protection;**

**Amendment 48**

**Proposal for a directive**

**Article 19 – paragraph 2 – point h**

*Text proposed by the Commission*

*Amendment*

(h) has been sent back after having absconded **to another Member State.**

(h) has been sent back after having absconded.

**Amendment 49**

**Proposal for a directive**

**Article 23 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

Member States shall as soon as **possible and no later than five working days from the moment when** an unaccompanied minor makes an application for international protection take measures to

Member States shall as soon as an unaccompanied minor makes an application for international protection take measures to ensure that a guardian represents and assists the unaccompanied

ensure that a guardian represents and assists the unaccompanied minor to enable him or her to benefit from the rights and comply with the obligations provided for in this Directive. The guardian appointed in accordance with Article [22] of Regulation (EU) No XXX/XXX [Procedures Regulation] may perform those tasks. The unaccompanied minor shall be informed immediately of the appointment of the guardian. Where an organisation is appointed as guardian, it shall designate a person responsible for carrying out the duties of guardian in respect of the unaccompanied minor, in accordance with this Directive. The guardian shall perform his or her duties in accordance with the principle of the best interests of the child, as prescribed in Article 22 (2), shall have the necessary expertise to that end and shall not have a verified record of child-related crimes or offences . In order to ensure the minor's well-being and social development referred to in Article 22 (2)(b), the person acting as guardian shall be changed only when necessary. Organisations or individuals whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be appointed as guardians.

minor to enable him or her to benefit from the rights and comply with the obligations provided for in this Directive. The guardian appointed in accordance with Article [22] of Regulation (EU) No XXX/XXX [Procedures Regulation] may perform those tasks. The unaccompanied minor shall be informed immediately of the appointment of the guardian. Where an organisation is appointed as guardian, it shall designate a person responsible for carrying out the duties of guardian in respect of the unaccompanied minor, in accordance with this Directive. The guardian shall perform his or her duties in accordance with the principle of the best interests of the child, as prescribed in Article 22 (2), shall have the necessary expertise ***and receive continuous and appropriate training*** to that end, and shall not have a verified ***criminal*** record, ***with particular regard to any*** of child-related crimes or offences. ***After his or her appointment, the guardian's criminal record shall be regularly reviewed by the competent authorities to identify potential incompatibilities with his or her role.*** In order to ensure the minor's well-being and social development referred to in Article 22 (2)(b), the person acting as guardian shall be changed only when necessary. Organisations or individuals whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be appointed as guardians.

## Amendment 50

### Proposal for a directive

#### Article 23 – paragraph 1 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***In order to protect unaccompanied minors from exploitation and trafficking, Member States shall identify unaccompanied children upon disembarkation, register them, carry out a***

*preliminary risk assessment and ensure referral to relevant child protection services.*

## Amendment 51

### Proposal for a directive

#### Article 23 – paragraph 1 – subparagraph 2

##### *Text proposed by the Commission*

Member States shall ensure that a guardian is **not** placed in charge of **a disproportionate** number of unaccompanied minors at the same time **that would render him or her unable** to perform his or her tasks effectively. Member States shall appoint entities or persons responsible for monitoring at regular intervals that guardians perform their tasks in a satisfactory manner. Those entities or persons shall also have the competence to review complaints lodged by unaccompanied minors against their guardian.

##### *Amendment*

Member States shall ensure that **guardians are** placed in charge of **an adequate and limited** number of unaccompanied minors at the same time **to allow them to be able** to perform **their** tasks effectively. Member States shall appoint entities or persons responsible for monitoring at regular intervals that guardians perform their tasks in a satisfactory manner. Those entities or persons shall also have the competence to review complaints lodged by unaccompanied minors against their guardian. **To this end, unaccompanied minors shall be given information, in a child-friendly manner and in a language they understand, about who these entities or persons are and how to report complaints against their guardians in confidence and safety.**

##### Justification

*When mentioning the necessary expertise the guardian should have, it is important to specify, as the Reception Directive does, that such expertise be aimed at enabling the guardian to perform his or her duties in the best interests of the child. Such expertise needs to be combined with appropriate and continuous training provided by the competent authorities. That the candidate to a position of guardianship hasn't a verified record of child-related crimes or offences is not enough. Other crimes or offences should also lead to discard a candidate, as the guardian is responsible for the overall well-being of the unaccompanied minor and should thus be a person of unblemished integrity. Even after appointment, regular checks of his/her criminal record are made necessary by the sensitive nature of the role. The expression "a disproportionate number" leaves too much room for interpretation, which may lead to misuses. Need to be more prescriptive: the expression "adequate and limited number of unaccompanied minors" has this objective. The addition at the end of the subparagraph of paragraph 1 aims at encouraging and enabling children to participate in and contribute to the monitoring of guardianship systems.*

## **Amendment 52**

### **Proposal for a directive**

#### **Article 29 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2a. Member States shall provide appropriate training and support for staff likely to encounter the physical and mental health needs of applicants entering the labour market.**



## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Standards for the reception of applicants for international protection (recast)
<b>References</b>	COM(2016)0465 – C8-0323/2016 – 2016/0222(COD)
<b>Committee responsible</b> Date announced in plenary	LIBE 15.9.2016
<b>Opinion by</b> Date announced in plenary	EMPL 15.9.2016
<b>Rapporteur</b> Date appointed	Brando Benifei 9.9.2016
<b>Discussed in committee</b>	28.2.2017                      22.3.2017
<b>Date adopted</b>	11.4.2017
<b>Result of final vote</b>	+:                      37 -:                      9 0:                      4
<b>Members present for the final vote</b>	Laura Agea, Guillaume Balas, Brando Benifei, Mara Bizzotto, Enrique Calvet Chambon, David Casa, Martina Dlabajová, Lampros Fountoulis, Elena Gentile, Marian Harkin, Czesław Hoc, Agnes Jongerius, Jan Keller, Agnieszka Kozłowska-Rajewicz, Jean Lambert, Jérôme Lavrilleux, Jeroen Lenaers, Javi López, Thomas Mann, Dominique Martin, Anthea McIntyre, Joëlle Mélin, Elisabeth Morin-Chartier, Emilian Pavel, Sofia Ribeiro, Maria João Rodrigues, Claude Rolin, Anne Sander, Sven Schulze, Siôn Simon, Jutta Steinruck, Romana Tomc, Yana Toom, Ulrike Trebesius, Renate Weber, Tatjana Ždanoka
<b>Substitutes present for the final vote</b>	Maria Arena, Georges Bach, Deirdre Clune, Tania González Peñas, Paloma López Bermejo, Csaba Sógor, Helga Stevens, Neoklis Sylikiotis, Anders Primdahl Vistisen, Flavio Zanonato, Gabriele Zimmer
<b>Substitutes under Rule 200(2) present for the final vote</b>	Pilar Ayuso, Sergio Gaetano Cofferati, Andrejs Mamikins

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

37	+
ALDE	Enrique Calvet Chambon, Marian Harkin, Yana Toom, Renate Weber
GUE/NGL	Tania González Peñas, Paloma López Bermejo, Neoklis Sylikiotis, Gabriele Zimmer
PPE	Pilar Ayuso, Georges Bach, Deirdre Clune, Agnieszka Kozłowska-Rajewicz, Jérôme Lavrilleux, Jeroen Lenaers, Thomas Mann, Elisabeth Morin-Chartier, Sofia Ribeiro, Claude Rolin, Anne Sander, Sven Schulze, Csaba Sógor
S&D	Maria Arena, Guillaume Balas, Brando Benifei, Sergio Gaetano Cofferati, Elena Gentile, Agnes Jongerius, Jan Keller, Javi López, Andrejs Mamikins, Emilian Pavel, Maria João Rodrigues, Siôn Simon, Jutta Steinruck, Flavio Zanonato
VERTS/ALE	Jean Lambert, Tatjana Ždanoka

9	-
ECR	Czesław Hoc, Anthea McIntyre, Helga Stevens, Ulrike Trebesius, Anders Primdahl Vistisen
ENF	Mara Bizzotto, Dominique Martin, Joëlle Mélin
NI	Lampros Fountoulis

4	0
ALDE	Martina Dlabajová
EFDD	Laura Agea
PPE	David Casa, Romana Tomc

### Key to symbols:

+ : in favour

- : against

0 : abstention

## **ANNEX: LETTER FROM THE COMMITTEE ON FOREIGN AFFAIRS**

Ref: D(2017) 16954

Mr Claude Moraes  
Chair  
Committee on Civil Liberties, Justice and Home Affairs

Dear Chair,

On 15 September 2016 the Committee on Civil Liberties, Justice and Home Affairs (LIBE) was referred a proposal for a directive of the European Parliament and of the Council laying down standards for the reception of applicants for international protection (recast) - 2016/0222(COD). LIBE then appointed Ms Sophia In't Veld as a rapporteur.

At their meeting on 27 October 2016, coordinators of the Committee on Foreign Affairs (AFET) decided that an AFET opinion on the above-mentioned proposal was to be provided to your Committee and rapporteur in the form of a letter. In my capacity as Chair of the Committee on Foreign Affairs, I am pleased to forward you this opinion.

As specified in the explanatory memorandum of the Commission's recast proposal, the discrepancies of procedures for asylum, reception conditions provided to applicants and recognition rates between Member States need to be further limited in order to establish a genuine Common European Asylum System and to avoid the administrative burden and security issues caused by secondary movements.

For AFET, it is paramount that in establishing such a common system, respect for human rights and fundamental freedoms, as well as appropriate treatment for the most vulnerable applicants, especially minors whether unaccompanied or within families, be guaranteed by the Union and its Member States. For AFET, the most vulnerable groups of people should be given special assistance and greater humanitarian protection as part of their integration process, to be prioritised in gender-sensitive reception procedures. They should benefit from particular safeguards against violence and discrimination during the asylum process and be provided with access to residence status and basic services, including health care and education, in accordance with applicable law (cf. § 14 of Parliament's resolution of 5 April 2017 on "Addressing refugee and migrant movement: the role of EU external action").

In a context where human mobility reaches an unprecedented level, with 244 million international migrants and in 2015 with 65.3 million people remaining forcibly displaced because of conflicts, destabilisation, violence and human rights violations, the lack of coordination of Member States in the field of security also constitutes one of the main vulnerabilities of the Union's external relations. Using existing Common Security and Defence Policy tools more efficiently and above all in coherence with other external and internal instruments should be at the core of a strong EU migration policy and external action (cf. §2 and §5 of Parliament's resolution of 23 November 2016 on "The implementation of the Common Security and Defence Policy").

As voted by Parliament last 5 April, the Common European Asylum System should also allow requests for asylum, as well as the processing of asylum claims, to take place outside the EU or at its borders (cf. § 47 of Parliament's resolution on "Addressing refugee and migrant movement: the role of EU external action").

I would also like to stress the importance of building close partnerships, with EU candidate and potential candidate countries from the Western Balkans region on issues of migration and to provide the necessary support and cooperation in managing migration flows in the region in accordance with article 8 of the Treaty on the European Union (cf. §50 of Parliament's resolution on "Addressing refugee and migrant movement: the role of EU external action").

The Commission's proposal states that it is consistent with the comprehensive long-term policy on better migration management by reducing incentives for irregular migration, securing the Union's external borders as well as ensuring a strong asylum policy and a new policy on legal migration. However, there is no reference to enhancing consistency, in accordance with article 7 of the Treaty on the Functioning of the European Union, with the European Union external relations with third countries and with the enlargement policy.

Therefore, I would like to draw the attention of the rapporteur, Ms In't Veld, and of Members of LIBE to these aspects with a view to the adoption of Parliament's position for the recast of the above-mentioned directive.

Yours sincerely,

David McAllister

## PROCEDURE – COMMITTEE RESPONSIBLE

<b>Title</b>	Standards for the reception of applicants for international protection (recast)	
<b>References</b>	COM(2016)0465 – C8-0323/2016 – 2016/0222(COD)	
<b>Date submitted to Parliament</b>	13.7.2016	
<b>Committee responsible</b> Date announced in plenary	LIBE 15.9.2016	
<b>Committees asked for opinions</b> Date announced in plenary	AFET 15.9.2016	EMPL 15.9.2016
<b>Not delivering opinions</b> Date of decision	AFET 8.9.2016	
<b>Rapporteurs</b> Date appointed	Sophia in 't Veld 5.9.2016	
<b>Discussed in committee</b>	31.1.2017	23.3.2017
<b>Date adopted</b>	25.4.2017	
<b>Result of final vote</b>	+: 42 -: 9 0: 3	
<b>Members present for the final vote</b>	Jan Philipp Albrecht, Heinz K. Becker, Malin Björk, Michał Boni, Agustín Díaz de Mera García Consuegra, Cornelia Ernst, Tanja Fajon, Raymond Finch, Monika Flašíková Beňová, Nathalie Griesbeck, Sylvie Guillaume, Jussi Halla-aho, Filiz Hyusmenova, Sophia in 't Veld, Eva Joly, Dietmar Köster, Cécile Kashetu Kyenge, Marju Lauristin, Monica Macovei, Roberta Metsola, Alessandra Mussolini, József Nagy, Péter Niedermüller, Soraya Post, Birgit Sippel, Branislav Škripek, Csaba Sógor, Helga Stevens, Traian Ungureanu, Bodil Valero, Marie-Christine Vergiat, Udo Voigt, Josef Weidenholzer, Kristina Winberg, Tomáš Zdechovský, Auke Zijlstra	
<b>Substitutes present for the final vote</b>	Anna Maria Corazza Bildt, Pál Csáky, Maria Grapini, Teresa Jiménez-Becerril Barrio, Marek Jurek, Jeroen Lenaers, Angelika Mlinar, Morten Helveg Petersen, Salvatore Domenico Pogliese, Emil Radev, Barbara Spinelli, Jaromír Štětina, Axel Voss	
<b>Substitutes under Rule 200(2) present for the final vote</b>	Jonás Fernández, Karoline Graswander-Hainz, Momchil Nekov, Marco Valli, Julie Ward	
<b>Date tabled</b>	10.5.2017	

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

42	+
ALDE	Nathalie Griesbeck, Filiz Hyusmenova, Angelika Mlinar, Morten Helveg Petersen, Sophia in 't Veld
EFDD	Marco Valli
GUE/NGL	Malin Björk, Cornelia Ernst, Barbara Spinelli, Marie-Christine Vergiat
PPE	Heinz K. Becker, Michał Boni, Anna Maria Corazza Bildt, Pál Csáky, Agustín Díaz de Mera García Consuegra, Teresa Jiménez-Becerril Barrio, Jeroen Lenaers, Roberta Metsola, Alessandra Mussolini, Salvatore Domenico Pogliese, Traian Ungureanu, Axel Voss, Tomáš Zdechovský, Jaromír Štětina
S&D	Tanja Fajon, Jonás Fernández, Monika Flašíková Beňová, Maria Grapini, Karoline Graswander-Hainz, Sylvie Guillaume, Cécile Kashetu Kyenge, Dietmar Köster, Marju Lauristin, Momchil Nekov, Péter Niedermüller, Soraya Post, Birgit Sippel, Julie Ward, Josef Weidenholzer
Vers/ALE	Jan Philipp Albrecht, Eva Joly, Bodil Valero

9	-
ECR	Jussi Halla-aho, Marek Jurek, Monica Macovei, Helga Stevens, Branislav Škripek
EFDD	Raymond Finch, Kristina Winberg
ENF	Auke Zijlstra
NI	Udo Voigt

3	0
PPE	József Nagy, Emil Radev, Csaba Sógor

### Key to symbols:

+ : in favour

- : against

0 : abstention