



Plenary sitting

A8-0345/2017

6.11.2017

*****I**
REPORT

on the proposal for a regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)
(COM(2016)0270 – C8-0173/2016 – 2016/0133(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Cecilia Wikström

(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 regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)
(COM(2016)0270 – C8-0173/2016 – 2016/0133(COD))**

(Ordinary legislative procedure – recast)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0270),
- having regard to Article 294(2) and Article 78(2)(e) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0173/2016),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Czech Chamber of Deputies, the Czech Senate, the Italian Senate, the Hungarian Parliament, the Polish Sejm, the Polish Senate, the Romanian Chamber of Deputies and the Slovak Parliament 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 19 October 2016¹,
- having regard to the opinion of the Committee of the Regions of 8 December 2016²,
- having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts³,
- having regard to the letter of 30 November 2016 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 opinions of the Committee on Foreign Affairs and the Committee on Budgets (A8-0345/2017),

¹ OJ C 34, 2.2.2017, p. 144.

² OJ C 185, 9.6.2017, p. 91.

³ OJ C 77, 28.3.2002, p. 1.

- 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 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 regulation

Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) Article 18 of the Charter of Fundamental Rights of the European Union provides that the right to asylum is guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union.

Justification

The right of asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees.

Amendment 2

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) Such a method should be based on objective, fair criteria both for the Member States and for the persons concerned. It should, in particular, make it possible to determine rapidly the Member State responsible, so as to guarantee effective access to the procedures for granting international protection and not to compromise the objective of the rapid processing of applications for international protection.

Amendment

(5) Such a method should be based on ***the principle of solidarity and*** objective, fair criteria both for the Member States and for the persons concerned. It should, in particular, make it possible to determine rapidly the Member State responsible, so as to guarantee effective access to the procedures for granting international protection and not to compromise the objective of the rapid processing of applications for international protection.

Amendment 3

Proposal for a regulation
Recital 9

Text proposed by the Commission

(9) The European Union Agency for Asylum should provide adequate support in the implementation of this Regulation, in particular by establishing the reference key for the distribution of asylum seekers under the corrective allocation mechanism, and by adapting the figures underlying the reference key annually, as well as the reference key based on Eurostat data.

Amendment

(9) The European Union Agency for Asylum (***the “Asylum Agency”***) should provide adequate support in the implementation of this Regulation, in particular by establishing the reference key for the distribution of asylum seekers under the corrective allocation mechanism, and by adapting the figures underlying the reference key annually, as well as the reference key based on Eurostat data. ***The Asylum Agency should develop information material, in close cooperation with the competent authorities of the Member States. The Asylum Agency should become responsible for the transfer of applicants for, or beneficiaries of, international protection in all cases provided for under this Regulation.***

Amendment 4

Proposal for a regulation
Recital 10

Text proposed by the Commission

(10) In the light of the results of the evaluation undertaken of the implementation of Regulation (EU) 604/2013, it is **appropriate, at this stage, to confirm the principles underlying Regulation (EU) No 604/2013, while making the necessary improvements**, in the light of experience, **to** the effectiveness of the Dublin system and the protection granted to applicants under that system. Based on this evaluation and on consultation with Member States, the European Parliament and other stakeholders, it is also considered appropriate to establish in the Regulation measures required for a fair share of responsibility between Member States for applications for international protection, in particular to ensure that a disproportionate burden is not placed upon some Member States.

Amendment 5

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) In accordance with the European Convention for the Protection of Human Rights and Fundamental Freedoms and with the Charter of Fundamental Rights of the European Union, respect for family life should be a primary consideration of Member States when applying this Regulation.

Amendment 6

Proposal for a regulation

Recital 17

Amendment

(10) In the light of the results of the evaluation undertaken of the implementation of Regulation (EU) 604/2013, it is necessary **to improve fundamentally**, in the light of experience, the effectiveness of the Dublin system and the protection granted to applicants under that system. Based on this evaluation and on consultation with Member States, the European Parliament and other stakeholders, it is also considered appropriate to establish in the Regulation measures required for a fair share of responsibility between Member States for applications for international protection, in particular to ensure that a disproportionate burden is not placed upon some Member States.

Amendment

(16) In accordance with the European Convention for the Protection of Human Rights and Fundamental Freedoms and with the Charter of Fundamental Rights of the European Union, respect for **private and** family life, **as well as for the principle of non-discrimination**, should be a primary consideration of Member States when applying this Regulation.

Text proposed by the Commission

Amendment

(17) In order to prevent that applicants with inadmissible claims or who are likely not to be in need of international protection, or who represent a security risk are transferred among the Member States, it is necessary to ensure that the Member where an application is first lodged verifies the admissibility of the claim in relation to the first country of asylum and safe third country, examines in accelerated procedures applications made by applicants coming from a safe country of origin designated on the EU list, as well as applicants presenting security concerns.

deleted

Amendment 7

Proposal for a regulation

Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) Applicants who represent a security risk should not be transferred between Member States. The Member State where the application for international protection is registered should conduct a security verification as soon as possible after the registration in order to establish whether the applicant can, for serious reasons, be considered to be a danger to national security or public policy of the Member State. Where a Member State objects to the transfer of an applicant on the basis of security concerns that Member State should provide all the necessary details corroborating its objections to the Member State where the applicant is present.

Amendment 8

Proposal for a regulation Recital 17 b (new)

Text proposed by the Commission

Amendment

(17b) If the criteria laid down in Article 10, 11, 12, 13 or 18 cannot be used to determine the Member State responsible, and if the applicant is not in need of specific procedural guarantees and is considered to be manifestly unlikely to qualify as a beneficiary of international protection, he or she should not be transferred to another Member State. The Member State where the applicant has lodged his or her application should be responsible for the further processing of the application. The general budget of the Union should cover costs related to the reception conditions of such an applicant and the Member State responsible should be able to request assistance from the Asylum Agency with regard to the processing of such an application. The Member State responsible should be able to request the assistance of the European Border and Coast Guard for the return of such an applicant to a third country following a return decision if it is found that he or she does not qualify as a beneficiary of international protection pursuant to Regulation (EU) No XXX/XXX [Qualification Regulation].

Amendment 9

Proposal for a regulation Recital 18

Text proposed by the Commission

Amendment

(18) The processing together of the applications for international protection of the members of one family by a single Member State makes it possible to ensure

(18) The processing together of the applications for international protection of the members of one family by a single Member State makes it possible to ensure

that the applications are examined thoroughly, the decisions taken in respect of them are consistent and the members of one family are not separated.

that the applications are examined thoroughly, the decisions taken in respect of them are consistent and the members of one family are not separated. ***The processing together of the applications for international protection of a family should be without prejudice to the right of an applicant to lodge an application individually.***

Amendment 10

Proposal for a regulation Recital 20

Text proposed by the Commission

(20) In order to ensure full respect for the principle of family unity and for the best interests of the child, the existence of a relationship of dependency between an applicant and his or her child, sibling or parent on account of the applicant's pregnancy or maternity, state of health or old age, should become a binding responsibility criterion. When the applicant is an unaccompanied minor, the presence of a family member or relative on the territory of another Member State who can take care of him or her should also become a binding responsibility criterion. ***In order to discourage secondary movements of unaccompanied minors, which are not in their best interests, in the absence of a family member or a relative, the Member State responsible should be that where the unaccompanied minor first has lodged his or her application for international protection, unless it is demonstrated that this would not be in the best interests of the child.*** Before transferring an unaccompanied minor to another Member State, the transferring Member State should ***make sure that*** that Member State will take all necessary and appropriate measures to ensure the adequate protection of the child, and in particular the prompt appointment of a ***representative or representatives***

Amendment

(20) In order to ensure full respect for the principle of family unity and for the best interests of the child, the existence of a relationship of dependency between an applicant and his or her child, sibling or parent on account of the applicant's pregnancy or maternity, state of health or old age, should become a binding responsibility criterion. When the applicant is an unaccompanied minor, the presence of a family member or relative on the territory of another Member State who can take care of him or her should also become a binding responsibility criterion ***unless it is demonstrated that this is not in the best interests of the minor.*** Before transferring an unaccompanied minor to another Member State, the transferring Member State should ***obtain individual guarantees from*** that Member State ***that it*** will take all necessary and appropriate measures to ensure the adequate protection of the child, and in particular the prompt appointment of a ***guardian*** tasked with safeguarding respect for all the rights to which they are entitled. Any decision ***on the responsibility for*** an unaccompanied minor ***according to this Regulation*** should be preceded by an assessment of his/her best interests by a ***multidisciplinary team*** with the necessary qualifications and expertise ***and the***

tasked with safeguarding respect for all the rights to which they are entitled. Any decision *to transfer* an unaccompanied minor should be preceded by an assessment of his/her best interests by *staff* with the necessary qualifications and expertise.

participation of his or her guardian and legal advisor.

Amendment 11

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) *Assuming responsibility by a Member State for examining an application lodged with it in cases when such examination is not its responsibility under the criteria laid down in this Regulation may undermine the effectiveness and sustainability of the system and should be exceptional. Therefore, a Member State should be able to derogate from the responsibility criteria only on humanitarian grounds, in particular for family reasons, before a Member State responsible has been determined and examine an application for international protection lodged with it or with another Member State, even if such examination is not its responsibility under the binding criteria laid down in this Regulation.*

Amendment

(21) A Member State *should be able to derogate from the responsibility criteria and examine* an application *for international protection* lodged with it *or with another Member State, even if* such examination is not its responsibility under the *binding* criteria laid down in this Regulation. *In order to counter the phenomenon of secondary movements and encourage asylum seekers to apply promptly in the first Member State of arrival, an applicant should be allowed to make a written, duly motivated request, in particular on the basis of his or her extended family, cultural or social ties, language skills or other meaningful links which would facilitate his or her integration into a specific Member State, for his or her application to be examined by the Member State where the application was lodged, or for that Member State to request another Member State to assume responsibility.*

Amendment 12

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) In order to ensure that the aims of

Amendment

(22) In order to ensure that the aims of

this Regulation are achieved and obstacles to its application are prevented, in particular in order to avoid absconding and secondary movements between Member States, *it is necessary to establish clear obligations to be complied with by the applicant in the context of the procedure, of which he or she should be duly informed in a timely manner. Violation of those legal obligations should lead to appropriate and proportionate procedural consequences for the applicant and to appropriate and proportionate consequences in terms of his or her reception conditions. In line with the Charter of Fundamental Rights of the European Union, the Member State where such an applicant is present should in any case ensure that the immediate material needs of that person are covered.*

this Regulation are achieved and obstacles to its application are prevented, in particular in order to avoid absconding and secondary movements between Member States, *procedures should be put in place to ensure the cooperation of applicants and Member States, with a clear system of incentives and disincentives to ensure compliance. It is also necessary to establish clear obligations to be complied with by the applicant in the context of the procedure and to ensure that all applicants are appropriately informed of the rights and obligations provided for in this Regulation. The support and protection of minors, in particular unaccompanied minors, should be strengthened. The meaning of absconding should be strictly defined. Irregular entry, lack of an address or documents proving the identity of an applicant should not, per se, constitute criteria for determining an existence of a risk of absconding.*

Amendment 13

Proposal for a regulation Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) In order to increase applicants' understanding of the functioning of CEAS it is necessary to improve the provision of information significantly. Investing in the early provision of accessible information to applicants will greatly increase the likelihood that they will understand, accept and follow the procedures of this Regulation. In order to reduce the administrative requirements and make effective use of common resources the Asylum Agency should develop suitable information material, in close cooperation with the national authorities. The Asylum Agency should make full use of modern information technologies when developing that

material. In order to assist asylum seekers properly, the Asylum Agency should also develop audio-visual information material that can be used as a complement to written information material. The Asylum Agency should be responsible for maintaining a dedicated website with information on the functioning of the CEAS for applicants and potential applicants designed to counter the often incorrect information provided to them by smugglers. The information material developed by the Asylum Agency should be translated and made available in all of the major languages spoken by asylum seekers arriving in the Union.

Amendment 14

Proposal for a regulation Recital 22 b (new)

Text proposed by the Commission

Amendment

(22b) Different categories of applicants have differing information needs and information will therefore have to be provided in different ways and be adapted to those needs. It is particularly important to ensure that minors have access to child-friendly information that is specific to their needs and situation. Providing accurate, high-quality information to both accompanied and unaccompanied minors in a child-friendly environment can play an essential part both in providing a good environment for the minor but also in order to identify cases of suspected trafficking in human beings.

Amendment 15

Proposal for a regulation Recital 23

Text proposed by the Commission

(23) A personal interview with the applicant should be organised in order to facilitate the determination of the Member State responsible for examining an application for international protection unless ***the applicant has absconded or*** the information provided by the applicant is sufficient for determining the Member State responsible. As soon as the application for international protection is ***lodged***, the applicant should be informed in particular of the application of this Regulation, of the lack of choice as to which Member State will examine his or her asylum application; of his or her obligations under this Regulation and of the consequences of not complying with them.

Amendment

(23) A personal interview with the applicant should be organised in order to facilitate the determination of the Member State responsible for examining an application for international protection unless the information provided by the applicant is sufficient for determining the Member State responsible ***and the applicant does not request to be heard***. As soon as the application for international protection is ***registered***, the applicant should be informed in particular of the application of this Regulation, of the lack of choice, ***except under the provisions of Chapter VII***, as to which Member State will examine his or her asylum application; of his or her obligations under this Regulation and of the consequences of not complying with them ***and of the necessity of presenting all information which is relevant for correctly determining the Member State responsible, in particular the presence of family members or relatives in the Member States. The applicant should also be fully informed about his or her rights, including the right to an effective remedy and legal assistance. The information to the applicant should be provided in a language that he or she understands, in a concise, transparent, intelligible and easily accessible form, using clear and plain language.***

Amendment 16

**Proposal for a regulation
Recital 23 a (new)**

Text proposed by the Commission

Amendment

(23a) The person conducting the personal interview should have received sufficient training to take account of the personal and general circumstances of the

applicant, including their cultural origin, age, gender, sexual orientation, gender identity, and vulnerability. Staff interviewing applicants should also have acquired general knowledge of problems which could adversely affect the applicant's ability to be interviewed, such as indicators showing that the person may have been tortured in the past.

Amendment 17

Proposal for a regulation Recital 24

Text proposed by the Commission

(24) In order to guarantee effective protection of the rights of the persons concerned, legal safeguards and the right to an effective remedy in respect of decisions regarding transfers to the Member State responsible should be established, in accordance, in particular, with Article 47 of the Charter of Fundamental Rights of the European Union. An effective remedy should also be provided in situations when no transfer decision is taken but the applicant claims that another Member State is responsible ***on the basis that he has a family member or, for unaccompanied minors, a relative in another Member State***. In order to ensure that international law is respected, an effective remedy against such decisions should cover both the examination of the application of this Regulation and of the legal and factual situation in the Member State to which the applicant is transferred. ***The scope of the effective remedy should be limited to an assessment of whether applicants' fundamental rights to respect of family life, the rights of the child, or the prohibition of inhuman and degrading treatment risk to be infringed upon.***

Amendment

(24) In order to guarantee effective protection of the rights of the persons concerned, legal safeguards and the right to an effective remedy in respect of decisions regarding transfers to the Member State responsible should be established, in accordance, in particular, with Article 47 of the Charter of Fundamental Rights of the European Union. An effective remedy should also be provided in situations when no transfer decision is taken but the applicant claims that another Member State is responsible. In order to ensure that international law is respected, an effective remedy against such decisions should cover both the examination of the application of this Regulation and of the legal and factual situation in the Member State to which the applicant is transferred.

Amendment 18

Proposal for a regulation

Recital 25

Text proposed by the Commission

(25) The Member State which is determined as responsible under this Regulation should remain responsible for examination of each and every application of that applicant, including any subsequent application, in accordance with Article **40, 41 and 42 of Directive 2013/32/EU, irrespective of whether** the applicant **has left or** was removed from **the territories** of the Member **States**. Provisions in Regulation (EU) 604/2013 which had provided for the cessation of responsibility in certain circumstances, including when deadlines for the carrying out of transfers had elapsed for a certain period of time, had created an incentive for absconding, and should therefore be removed.

Amendment

(25) The Member State which is determined as responsible under this Regulation should remain responsible for examination of each and every application of that applicant, including any subsequent application, in accordance with Article **[42] of Regulation (EU) XXX/XXX [Asylum procedures Regulation] unless** the applicant was removed from **or left the territory** of the Member **State following a return decision**. Provisions in Regulation (EU) 604/2013 which had provided for the cessation of responsibility in certain circumstances, including when deadlines for the carrying out of transfers had elapsed for a certain period of time, had created an incentive for absconding, and should therefore be removed.

Amendment 19

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) In order to ensure the speedy determination of responsibility and allocation of applicants for international protection between Member States, the deadlines for making and replying to requests to take charge, for making take back notifications, and for carrying out transfers, as well as for making and deciding on appeals, should be streamlined and shortened to the greatest extent possible.

Amendment

(26) In order to ensure the speedy determination of responsibility and allocation of applicants for international protection between Member States, the deadlines for making and replying to requests to take charge, for making take back notifications, and for carrying out transfers, as well as for making and deciding on appeals, should be shortened to the greatest extent possible, **while respecting the fundamental rights of applicants, the rights of vulnerable persons, in particular the rights of the child and the fundamental principle of the best interests of the child as well as the**

right to family reunification.

Amendment 20

Proposal for a regulation

Recital 27

Text proposed by the Commission

(27) 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. Detention should be for as short a period as possible and subject to the principles of necessity and proportionality. ***In particular***, the detention of applicants must be in accordance with Article 31 of the Geneva Convention. The procedures provided for under this Regulation in respect of a detained person should be applied as a matter of priority, within the shortest possible deadlines. As regards the general guarantees governing detention, as well as detention conditions, where appropriate, Member States should apply the provisions of Directive 2013/33/EU also to persons detained on the basis of this Regulation.

Amendment

(27) 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. Detention should be for as short a period as possible and subject to the principles of necessity and proportionality. ***Detention or 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.*** In particular, the detention of applicants must be in accordance with Article 31 of the Geneva Convention ***and should fully respect the applicant's fundamental rights.*** The procedures provided for under this Regulation in respect of a detained person should be applied as a matter of priority, within the shortest possible deadlines. As regards the general guarantees governing detention, as well as detention conditions, where appropriate, Member States should apply the provisions of Directive 2013/33/EU also to persons detained on the basis of this Regulation.

Amendment 21

Proposal for a regulation

Recital 29

Text proposed by the Commission

(29) Proper registration of all asylum applications in the EU under a unique application number should help detect

Amendment

(29) Proper registration of all asylum applications in the EU under a unique application number should help detect

multiple applications and prevent irregular secondary movements **and asylum shopping**. An automated system should be established for the purpose of facilitating the application of this Regulation. It should enable registration of asylum applications lodged in the EU, effective monitoring of the share of applications of each Member State and a correct application of the corrective allocation mechanism.

multiple applications and prevent irregular secondary movements. An automated system should be established for the purpose of facilitating the application of this Regulation. It should enable registration of asylum applications lodged in the EU, effective monitoring of the share of applications of each Member State and a correct application of the corrective allocation mechanism. ***In full respect of the purpose limitation principle the unique identifier should not, in any event, be used for purposes other than those provided for in this Regulation.***

Amendment 22

Proposal for a regulation

Recital 30

Text proposed by the Commission

(30) The European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice established by Regulation (EU) No 1077/2011²¹ should be responsible for the preparation, development and the operational management of the central system and the communication infrastructure between the central system and the national infrastructures.

²¹ Regulation (EU) No 1077/2011 of the European Parliament and of the council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 286, 1.11.2011, p. 1).

Amendment 23

Proposal for a regulation

Recital 31

Amendment

(30) The European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice established by Regulation (EU) No 1077/2011²¹ should be responsible for the preparation, development and the operational management of the central system, ***its interoperability with other systems*** and the communication infrastructure between the central system and the national infrastructures.

²¹ Regulation (EU) No 1077/2011 of the European Parliament and of the council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 286, 1.11.2011, p. 1).

Text proposed by the Commission

(31) In accordance with Article 80 of the Treaty, Union acts should, whenever necessary, contain appropriate measures to give effect to the principle of solidarity. A corrective allocation mechanism should be established in order to ensure a fair sharing of responsibility between Member States and a swift access of applicants to procedures for granting international protection in situations *when* a Member State *is* confronted with a disproportionate number of applications for international protection for which it *is* responsible *under this Regulation*.

Amendment 24

Proposal for a regulation
Recital 31 a (new)

Text proposed by the Commission

Amendment 25

Proposal for a regulation
Recital 32

Text proposed by the Commission

(32) A key based on the size of the population and of the economy of the Member States should be applied as a point of reference in the operation of the corrective allocation mechanism *in*

Amendment

(31) In accordance with Article 80 of the Treaty, Union acts should, whenever necessary, contain appropriate measures to give effect to the principle of solidarity. A corrective allocation mechanism should be established in order to ensure a fair sharing of responsibility between Member States and a swift access of applicants to procedures for granting international protection in *order to avoid* situations *where* a Member State *would otherwise be* confronted with a disproportionate number of applications for international protection for which it *would be* responsible.

Amendment

(31a) Member States should ensure that procedures for determining the Member State responsible are efficient and allow applicants for international protection to be relocated to other Member States promptly, where appropriate. Applicants with specific procedural needs should have their applications for international protection and transfers prioritised.

Amendment

(32) A *reference* key based on the size of the population and of the economy of the Member States should be applied as a point of reference in the operation of the corrective allocation mechanism, so as to

conjunction with a threshold, so as to enable the mechanism to *function as a means of assisting* Member States *under disproportionate pressure*. The application of the corrective allocation *for the benefit of* a Member State *should be triggered automatically where the number of applications for international protection for which a Member State is responsible exceeds 150% of the figure identified in the reference key*. In order to comprehensively reflect the efforts of each Member State, the number of persons effectively resettled to that Member State should be added to the number of applications for international protection for the purposes of this calculation.

Amendment 26

Proposal for a regulation Recital 32 a (new)

Text proposed by the Commission

enable the mechanism to *ensure a fair sharing of the responsibilities by the* Member States. The application of the corrective allocation *should be permanent and automatic where* a Member State responsible *could not be determined according to the criteria set out in Chapters III and IV*. In order to comprehensively reflect the efforts of each Member State, the number of persons effectively resettled to that Member State should be added to the number of applications for international protection for *which the Member State is responsible*, for the purposes of this calculation.

Amendment

(32a) *Member States have differing experiences with regard to the reception of applicants. In order to ensure that Member States that have not in recent years been among the main destination countries for applicants have sufficient time to build up their reception capacity, the corrective allocation mechanism should enable a gradual transition from the current situation to a situation with a fair distribution of responsibilities under the corrective allocation mechanism. The transitional system should create a baseline based on the average relative numbers of historically lodged applications for international protection in Member States and then transition from this "status quo" model towards a fair distribution by removing one third of the baseline and adding one third of the fair distribution model per year until the system is fully based on the fair sharing of responsibilities. It is crucial that Member*

States, which have not in recent years been destination countries for applicants make full use of the possibilities offered by the gradual implementation of the corrective allocation mechanism to ensure that their reception capacity is sufficiently strengthened, in particular with regard to the reception of minors. The Asylum Agency should conduct a particular stocktaking of the capacity for the reception of unaccompanied minors in all Member States during the transitional period in order to identify deficiencies and offer assistance to address those issues.

Amendment 27

Proposal for a regulation Recital 33

Text proposed by the Commission

(33) When the allocation mechanism ***applies***, the applicants who lodged their applications in the ***benefitting*** Member State should be allocated to Member States which are below their share of applications on the basis of the reference key as applied to those Member States. Appropriate rules should be provided for in cases where an applicant may for serious reasons be considered a danger to national security or public ***order***, especially rules as regards the exchange of information between competent asylum authorities of Member States. After the transfer, the Member State of allocation should ***determine*** the Member State responsible, ***and should become responsible for examining the application, unless the overriding responsible criteria, related in particular to the presence of family members, determine that a different Member State should be responsible.***

Amendment

(33) When ***applying*** the allocation mechanism, the applicants who lodged their applications in the ***determining*** Member State should be allocated to Member States which are below their share of applications on the basis of the reference key as applied to those Member States. Appropriate rules should be provided for in cases where an applicant may for serious reasons be considered a danger to national security or public ***policy***, especially rules as regards the exchange of information between competent asylum authorities of Member States. After the transfer, the Member State of allocation should ***examine the application as*** the Member State responsible.

Amendment 28

Proposal for a regulation Recital 33 a (new)

Text proposed by the Commission

Amendment

(33a) Member State should ensure that procedures are efficient and allow applicants to be promptly relocated to other Member States, when they are not responsible under this Regulation. With a view to avoiding costly and time-consuming secondary transfers and in order to provide an efficient access to family unity for applicants whilst not unduly overburdening frontline Member States a light procedure should be envisaged which would allow for the transfer of applicants that are likely to meet the relevant criteria for reunification with family members in a particular Member State or to have their application swiftly examined in a Member State with which they have proven meaningful links based on previous legal residence or educational diplomas.

Amendment 29

Proposal for a regulation Recital 33 b (new)

Text proposed by the Commission

Amendment

(33b) In order to avoid secondary movements and to increase the prospects of integration and facilitate the administrative processing of applications for international protection it is beneficial to ensure that applicants who wish to be transferred together can register and be transferred under the corrective allocation mechanism as a group to one Member State rather than to be split up between several Member States. The applicants themselves should be able to determine their group and it should be

made clear to applicants that such group registration does not entail a right to be transferred to a particular Member State but, rather, a right to be transferred to a Member State as a group, in accordance with the corrective allocation mechanism. Where an applicant qualifies for reunification with family members or a Member State has chosen to assume responsibility for the application under the discretionary provisions of this Regulation, the applicant should not be able to form part of a group in the context of the corrective allocation mechanism. Where an applicant belonging to a group cannot be transferred because of, for example, health reasons or public security or public policy considerations, it should be possible to transfer the other members of the group or parts of the group to the Member State of allocation before the applicant who cannot be transferred. Once the obstacles to the transfer of the remaining applicant are resolved he or she should be transferred to the same Member State as the rest of the group.

Amendment 30

Proposal for a regulation Recital 34

Text proposed by the Commission

Amendment

(34) A Member State of allocation may decide not to accept the allocated applicants during a twelve months-period, in which case it should enter this information in the automated system and notify the other Member States, the Commission and the European Union Agency for Asylum. Thereafter the applicants that would have been allocated to that Member State should be allocated to the other Member States instead. The Member State which temporarily does not take part in the corrective allocation should make a solidarity contribution of

deleted

EUR 250,000 per applicant not accepted to the Member State that was determined as responsible for examining those applications. The Commission should lay down the practical modalities for the implementation of the solidarity contribution mechanism in an implementing act. The European Union Agency for Asylum will monitor and report to the Commission on a yearly basis on the application of the financial solidarity mechanism.

Amendment 31

Proposal for a regulation

Recital 36

Text proposed by the Commission

(36) In accordance with Commission Regulation (EC) No 1560/2003²², transfers to the Member State responsible for examining an application for international protection may be carried out on a voluntary basis, by supervised departure or under escort. **Member States should promote** voluntary transfers by providing adequate information to the applicant and should ensure that supervised or escorted transfers are undertaken in a humane manner, in full compliance with fundamental rights and respect for human dignity, as well as the best interests of the child and taking utmost account of developments in the relevant case law, in particular as regards transfers on humanitarian grounds.

²² OJ L 222, 5.9.2003, p. 3.

Amendment

(36) In accordance with Commission Regulation (EC) No 1560/2003²², transfers to the Member State responsible for examining an application for international protection may be carried out on a voluntary basis, by supervised departure or under escort. **Voluntary transfers should be promoted** by providing adequate information to the applicant and should ensure that supervised or escorted transfers are undertaken in a humane manner, in full compliance with fundamental rights and respect for human dignity, as well as the best interests of the child and taking utmost account of developments in the relevant case law, in particular as regards transfers on humanitarian grounds.

²² OJ L 222, 5.9.2003, p. 3.

Amendment 32

Proposal for a regulation

Recital 38

(38) The [General Data Protection Regulation (EU) .../2016] applies to the processing of personal data by the Member States under this Regulation from the date set out in that Regulation; until this date Directive 95/46/EC applies. Member States should implement appropriate technical and organisational measures to ensure and be able to demonstrate that processing is performed in accordance with that Regulation and the provisions specifying its requirements in this Regulation. In particular those measures should ensure the security of personal data processed under this Regulation and in particular to prevent unlawful or unauthorised access or disclosure, alteration or loss of personal data processed. The competent supervisory authority or authorities of each Member State should monitor the lawfulness of the processing of personal data by the authorities concerned, including of the transmission to and from the automated system and to the authorities competent for carrying out security checks.

(38) The [General Data Protection Regulation (EU) .../2016] applies to the processing of personal data by the Member States under this Regulation from the date set out in that Regulation; until this date Directive 95/46/EC applies. Member States should implement appropriate technical and organisational measures to ensure and be able to demonstrate that processing is performed in accordance with that Regulation and the provisions specifying its requirements in this Regulation. In particular those measures should ensure the security of personal data processed under this Regulation and in particular to prevent unlawful or unauthorised access or disclosure, alteration or loss of personal data processed. ***In particular, data subjects should be notified without undue delay when a security incident is likely to result in a high risk to their rights and freedoms.*** The competent supervisory authority or authorities of each Member State should monitor the lawfulness of the processing of personal data by the authorities concerned, including of the transmission to and from the automated system and to the authorities competent for carrying out security checks.

Amendment 33

Proposal for a regulation Recital 38 a (new)

Text proposed by the Commission

Amendment

(38a) Regulation (EC) No 45/2001 of the European Parliament and of the Council^{1a} applies to the processing of personal data by the Asylum Agency.

^{1a} Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing

of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.01.2001, p. 1).

Justification

This amendment is inextricably linked to other admissible amendments in recital 38, which states that the GDPR applies to data processed by Member States. However, nowhere in the proposal is it stated that Regulation 45/2001 applies to the processing of personal data by the EUAA. Recital 39 only mentions Regulation 45/2001 in the context of EDPS monitoring.

Amendment 34

Proposal for a regulation Recital 38 b (new)

Text proposed by the Commission

Amendment

(38b) Information on applicants in the Union could potentially be of value for authorities in the third country from which the applicants have moved in order to seek international protection. Given the increased threat to Union information systems from third countries and as the system envisaged in this Regulation will imply that all registrations will get a unique identifying number, Member States as well as the Union agencies responsible should take all proportionate and necessary measures to ensure that the data is stored in a secure way.

Justification

Applicants for international protection, not least those fleeing political persecution, have often fled from regimes in third countries that could have an interest in tracking down the applicant. Given the increased and systematic use by a number of countries of hacking and information warfare both Member States and EU agencies should take necessary precautions to ensure that the data on applicants for international protection in Europe do not end up in the wrong hands.

Amendment 35

Proposal for a regulation Recital 40

Text proposed by the Commission

(40) The application of this Regulation can be facilitated, and its effectiveness increased, by bilateral arrangements between Member States for improving communication between competent departments, reducing time limits for procedures or simplifying the processing of requests ***to take charge or take back***, or establishing procedures for the performance of transfers.

Amendment

(40) The application of this Regulation can be facilitated, and its effectiveness increased, by ***means of the support of the Asylum Agency as well as*** bilateral arrangements between Member States for improving communication between competent departments, reducing time limits for procedures or simplifying the processing of requests ***and notifications*** or establishing procedures for the performance of transfers.

Amendment 36

Proposal for a regulation

Recital 41

Text proposed by the Commission

(41) Continuity between the system for determining the Member State responsible established by Regulation (EU) No 604/2013 and the system established by this Regulation should be ensured. Similarly, consistency should be ensured between this Regulation and Regulation [Proposal for a Regulation recasting Regulation (EU) No 603/2013 of the European Parliament and of the Council] .

Amendment

(41) Continuity between the system for determining the Member State responsible established by Regulation (EU) No 604/2013 and the system established by this Regulation should be ensured. Similarly, consistency should be ensured between this Regulation and Regulation [Proposal for a Regulation recasting Regulation (EU) No 603/2013 of the European Parliament and of the Council] . ***Where the automated system for the registration and follow-up of applications for international protection, and for the corrective allocation mechanism provided for in this Regulation, has determined the Member State of allocation, that information should be automatically entered in Eurodac. It is therefore necessary to ensure the interoperability of the corrective allocation mechanism central system and the Eurodac central system.***

Amendment 37

Proposal for a regulation
Recital 47

Text proposed by the Commission

(47) The examination procedure should be used for the adoption ***of a common leaflet on Dublin/Eurodac, as well as a specific leaflet for unaccompanied minors***; of a standard form for the exchange of relevant information on unaccompanied minors; of uniform conditions for the consultation and exchange of information on minors and dependent persons; of uniform conditions on the preparation and submission of take charge requests and take back notifications ; of two lists of relevant elements of proof and circumstantial evidence, and the periodical revision thereof; of a laissez passer; of uniform conditions for the consultation and exchange of information regarding transfers; of a standard form for the exchange of data before a transfer; of a common health certificate; of uniform conditions and practical arrangements for the exchange of information on a person's health data before a transfer, and of secure electronic transmission channels for the transmission of requests.

Amendment 38

Proposal for a regulation
Recital 48

Text proposed by the Commission

(48) In order to provide for supplementary rules, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the identification of family members or relatives of an unaccompanied minor; the criteria for establishing the existence of proven family links; the criteria for assessing the capacity

Amendment

(47) The examination procedure should be used for the adoption of a standard form for the exchange of relevant information on unaccompanied minors; of uniform conditions for the consultation and exchange of information on minors and dependent persons; of uniform conditions on the preparation and submission of take charge requests and take back notifications ; of two lists of relevant elements of proof and circumstantial evidence, and the periodical revision thereof; of a laissez passer; of uniform conditions for the consultation and exchange of information regarding transfers; of a standard form for the exchange of data before a transfer; of a common health certificate; of uniform conditions and practical arrangements for the exchange of information on a person's health data before a transfer, and of secure electronic transmission channels for the transmission of requests.

Amendment

(48) In order to provide for supplementary rules, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the identification of family members or relatives of an unaccompanied minor; the criteria for establishing the existence of proven family links; the criteria for assessing the capacity

of a relative to take care of an unaccompanied minor, including where family members, siblings or relatives of the unaccompanied minor stay in more than one Member State; the elements for assessing a dependency link; the criteria for assessing the capacity of a person to take care of a dependent person **and** the elements to be taken into account in order to assess the inability to travel for a significant period of time. In exercising its powers to adopt delegated acts, the Commission shall not exceed the scope of the best interests of the child as provided for under Article 8 of this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts

of a relative to take care of an unaccompanied minor, including where family members, siblings or relatives of the unaccompanied minor stay in more than one Member State; the elements for assessing a dependency link; the criteria for assessing the capacity of a person to take care of a dependent person. The elements to be taken into account in order to assess the inability to travel for a significant period of time **and standard operating protocols for the determination of the best interests of the child**. In exercising its powers to adopt delegated acts, the Commission shall not exceed the scope of the best interests of the child as provided for under Article 8 of this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

Amendment 39

Proposal for a regulation

Recital 52

Text proposed by the Commission

(52) In order to assess whether the corrective allocation mechanism in this Regulation is meeting the objective of ensuring a fair sharing of responsibility between Member States and of relieving disproportionate pressure on certain Member States, the Commission should

Amendment

(52) In order to assess whether the corrective allocation mechanism in this Regulation is meeting the objective of ensuring a fair sharing of responsibility between Member States and of relieving disproportionate pressure on certain Member States, the Commission should

review the functioning of the corrective allocation mechanism and ***in particular verify that the threshold for the triggering and cessation of the corrective allocation*** effectively ensures a fair sharing of responsibility between the Member States and a swift access of applicants to procedures for granting international protection in situations when a Member State is confronted with a disproportionate number of applications for international protection for which it is responsible under this Regulation.

Amendment 40

Proposal for a regulation
Article 2 – paragraph 1 – point g – indent 2

Text proposed by the Commission

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

Amendment 41

Proposal for a regulation
Article 2 – paragraph 1 – point g – indent 3

Text proposed by the Commission

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

Amendment 42

Proposal for a regulation

review the functioning of the corrective allocation mechanism and ***assess whether it*** effectively ensures a fair sharing of responsibility between the Member States and a swift access of applicants to procedures for granting international protection, ***in particular*** in situations when a Member State is confronted with a disproportionate number of applications for international protection for which it is responsible under this Regulation. ***The Commission should closely involve the European Parliament with regard to those reviews.***

Amendment

- the minor children of couples referred to in the first indent or of the applicant ***and the adult children for whom they have charge***, regardless of whether they were born in or out of wedlock or adopted as defined ***or recognised*** under national law, ***as well as the other children for whom they hold parental responsibility***,

Amendment

- when the applicant is a minor, the father, mother or another adult responsible for the applicant, whether by law or by the practice of the Member State where the adult is present,

Article 2 – paragraph 1 – point g – indent 4

Text proposed by the Commission

- when the beneficiary of international protection is a minor **and unmarried**, the father, mother or another adult responsible for him or her whether by law or by the practice of the Member State where the beneficiary is present,

Amendment

- when the beneficiary of international protection is a minor, the father, mother or another adult responsible for him or her whether by law or by the practice of the Member State where the beneficiary is present,

Amendment 43

Proposal for a regulation

Article 2 – paragraph 1 – point k

Text proposed by the Commission

(k) ‘**representative**’ means a **person or an organisation appointed by the competent bodies in order to assist and represent an unaccompanied minor in procedures provided for in this Regulation with a view to ensuring the best interests of the child and exercising legal capacity for the minor where necessary. Where an organisation is appointed as a representative, it shall designate a person responsible for carrying out its duties in respect of the minor, in accordance with this Regulation;**

Amendment

(k) ‘**guardian**’ means a **guardian as defined in Article [4(2)(f)] of Regulation (EU) XXX/XXX [Procedures Regulation]**

Amendment 44

Proposal for a regulation

Article 2 – paragraph 1 – point n

Text proposed by the Commission

(n) ‘**risk of absconding**’ means the existence of reasons in an individual case, which are based on objective criteria **defined by law**, to believe that an applicant **or a third-country national or a stateless person who is subject to a transfer**

Amendment

(n) ‘**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**

procedure may abscond;

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 one's nationality;

Amendment 45

Proposal for a regulation

Article 2 – paragraph 1 – point o

Text proposed by the Commission

Amendment

(o) *'benefitting Member State' means the Member State benefitting from the corrective allocation mechanism set out in Chapter VII of this Regulation and carrying out the allocation of the applicant;*

deleted

Amendment 46

Proposal for a regulation

Article 2 – paragraph 1 – point q – introductory part

Text proposed by the Commission

Amendment

(q) 'resettled person' means a person subject to the process of resettlement whereby, *on a request* from the United Nations High Commissioner for Refugees ('UNHCR') *based on a person's need for international protection*, third-country nationals *are* transferred from a third country and *established* in a Member State where they are permitted to reside with one of the following statuses:

(q) 'resettled person' means a person subject to the process of resettlement whereby, *upon referral* from the United Nations High Commissioner for Refugees ('UNHCR') *or Member States*, third-country nationals *and stateless persons in need of international protection are selected, admitted*, transferred from a third country and *offered protection* in a Member State where they are permitted to reside with one of the following statuses:

Amendment 47

Proposal for a regulation

Article 3 – paragraph -1 (new)

-1. Member States shall, through proactive measures, ensure that any third-country national or stateless person on their territory, including at the external border, in the territorial sea or in their transit zones or at border crossing points, including transit zones at external borders, who can reasonably be expected to apply for international protection in a Member State are given the effective possibility to be registered in accordance with the provisions of Regulation (EU) XXXX/XX [Asylum procedures Regulation]. A person who has entered the territory of a Member State irregularly shall be registered in Eurodac pursuant to Article [14] of Regulation (EU) XXXX/XX [Eurodac regulation].

Amendment 48

Proposal for a regulation Article 3 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall examine any application for international protection by a third-country national or a stateless person who applies on the territory of any one of them, including at the border or in the transit zones. The application shall be examined by a single Member State, which shall be the one which the criteria set out in **Chapter III** indicate is responsible.

1. Member States shall examine any application for international protection by a third-country national or a stateless person who applies on the territory of any one of them, including at the border or in the transit zones. The application **for international protection** shall be examined by a single Member State, which shall be the one which the criteria set out in **Chapters III and IV** indicate is responsible.

Amendment 49

Proposal for a regulation Article 3 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

Where no Member State responsible can be designated on the basis of the criteria *listed in this Regulation*, the *first* Member State *in which* the application for international protection *was lodged* shall be *responsible for examining it*.

Where no Member State responsible can be designated on the basis of the criteria *set out in Chapters III and IV*, the Member State *responsible for examining* the application for international protection shall be *determined in accordance with the corrective allocation mechanism set out in Chapter VII*.

Amendment 50

Proposal for a regulation

Article 3 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Where it is impossible to transfer an applicant to the Member State *primarily* designated as responsible because there are substantial grounds for believing that *there are systemic flaws in the asylum procedure and in the reception conditions for applicants in that Member State, resulting in a risk of inhuman or degrading treatment within the meaning of Article 4 of the Charter of Fundamental Rights of the European Union*, the determining Member State shall continue to examine the criteria set out in *Chapter III* in order to establish whether another Member State can be designated as responsible.

Amendment

Where it is impossible to transfer an applicant to the Member State designated as responsible because there are substantial grounds for believing that *the applicant would be subjected to a real risk of a serious violation of his or her fundamental rights*, the determining Member State shall continue to examine the criteria set out in *Chapters III and IV* in order to establish whether another Member State can be designated as responsible.

Amendment 51

Proposal for a regulation

Article 3 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Where the transfer cannot be made pursuant to this paragraph to any Member State designated on the basis of the criteria set out in *Chapter III or to the first Member State with which the application was lodged, the determining Member State shall become* the Member State

Amendment

Where the transfer cannot be made pursuant to this paragraph to any Member State designated on the basis of the criteria set out in *Chapters III and IV* the Member State *responsible for examining the application for international protection shall be determined in accordance with*

responsible.

the corrective allocation mechanism set out in Chapter VII.

Amendment 52

Proposal for a regulation Article 3 – paragraph 3

Text proposed by the Commission

Amendment

3. Before applying the criteria for determining a Member State responsible in accordance with Chapters III and IV, the first Member State in which the application for international protection was lodged shall:

deleted

(a) examine whether the application for international protection is inadmissible pursuant to Article 33(2) letters b) and c) of Directive 2013/32/EU when a country which is not a Member State is considered as a first country of asylum or as a safe third country for the applicant; and

(b) examine the application in accelerated procedure pursuant to Article 31(8) of Directive 2013/32/EU when the following grounds apply:

(i) the applicant has the nationality of a third country, or he or she is a stateless person and was formerly habitually resident in that country, designated as a safe country of origin in the EU common list of safe countries of origin established under Regulation [Proposal COM (2015) 452 of 9 September 2015]; or

(ii) the applicant may, for serious reasons, be considered a danger to the national security or public order of the Member State, or the applicant has been forcibly expelled for serious reasons of public security or public order under national law.

Amendment 53

Proposal for a regulation Article 3 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The first Member State in which an application for international protection was registered shall examine that application in an accelerated procedure pursuant to Article [40] of Regulation XXXX/XX/EU [Asylum Procedures Regulation] if the applicant, following the security verification provided for in Article 3a, is for serious reasons considered to be a danger to the national security or public order of the Member State, or the applicant has previously been forcibly expelled under national law either from the determining Member State or from another Member State, for serious reasons of public security or public order .

Amendment 54

Proposal for a regulation Article 3 – paragraph 4

Text proposed by the Commission

Amendment

4. Where the Member State considers an application inadmissible or examines an application in accelerated procedure pursuant to paragraph 3, that Member State shall be considered the Member State responsible.

deleted

Amendment 55

Proposal for a regulation Article 3 – paragraph 5

Text proposed by the Commission

Amendment

5. The Member State which has

5. The Member State which has

examined an application for international protection, including in the cases referred to in paragraph 3, shall be responsible for examining any further representations or a subsequent application of that applicant in accordance with Article 40, 41 and 42 of Directive 2013/32/EU, irrespective of whether the applicant has left or was removed from the territories of the Member States.

examined an application for international protection, including in the cases referred to in paragraph 3, shall be responsible for examining any further representations or a subsequent application of that applicant in accordance with Article [42] of Regulation (EU) XXX/XXX [Asylum procedures Regulation] unless the applicant was removed from or left the territory of the Member State following a return decision.

Amendment 56

Proposal for a regulation Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

Security verification

- 1. The determining Member State shall take the biometric data of the applicant promptly in accordance with Article 10(1) of Regulation (EU) XXX/XXX [Eurodac Regulation]. As soon as possible after the registration of the applicant, the determining Member State shall carry out a security verification check against the relevant Union and national databases.*
- 2. If the security verification referred to in paragraph 1 of this Article, or additional information gathered by the determining Member State, including through the interview referred to in Article 7, gives reason to suspect that an applicant could be considered to be a danger to the national security or public order of the Member State, the determining Member State shall carry out a personal security interview, in addition to the interview referred to in Article 7, in order to establish whether the applicant can, for serious reasons, be considered to be a danger to national security or public order of that Member State.*

Amendment 57

Proposal for a regulation Article 4 – paragraph 2

Text proposed by the Commission

2. The applicant shall submit as soon as possible ***and at the latest during the interview pursuant to Article 7, all*** the elements and information relevant for determining the Member State responsible and cooperate with the competent authorities of the Member States.

Amendment

2. The applicant shall submit as soon as possible all the ***available*** elements and information relevant for determining the Member State responsible and cooperate with the competent authorities of the Member States. ***The competent authorities shall take into account the elements and information relevant for determining the Member State responsible only insofar as they have been submitted before the final decision determining the Member State responsible.***

Amendment 58

Proposal for a regulation Article 5 – paragraph 1

Text proposed by the Commission

1. ***If an applicant does not comply with the obligation set out in Article 4(1), the Member State responsible in accordance with this Regulation shall examine the application in an accelerated procedure, in accordance with Article 31(8) of Directive 2013/32/EU.***

Amendment

deleted

Amendment 59

Proposal for a regulation Article 5 – paragraph 2

Text proposed by the Commission

2. The Member State in which the applicant is obliged to be present shall continue the procedures for determining

Amendment

2. The Member State in which the applicant is obliged to be present shall continue the procedures for determining

the Member State responsible even when the applicant leaves the territory of that Member State without authorisation or is otherwise not available for the competent authorities of that Member State.

the Member State responsible even when the applicant leaves the territory of that Member State without authorisation or is otherwise not available for the competent authorities of that Member State. ***The competent authorities of that Member State shall introduce a notification into the automated system referred to in Article 44(1) as soon as they have proof that the applicant has left the territory of that Member State.***

Amendment 60

Proposal for a regulation Article 5 – paragraph 3

Text proposed by the Commission

Amendment

3. The applicant shall not be entitled to the reception conditions set out in Articles 14 to 19 of Directive 2013/33/EU, with the exception of emergency health care, during the procedures under this Regulation in any Member State other than the one in which he or she is required to be present.

deleted

Amendment 61

Proposal for a regulation Article 6 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. As soon as an application for international protection is made within the meaning of Article [26] of Regulation (EU) XXXX/XXX [Asylum Procedures Regulation] in a Member State, its competent authorities shall inform the applicant of his or her rights and obligations with regards to the registering of the application for international protection in accordance with Article [26(1)] of that Regulation. In that context, minors shall be provided with information

in a child-friendly manner in accordance with Article [5(2)] of Directive (EU) xxx/xxxx [Reception Conditions Directive] by appropriately trained staff and with the involvement of the guardian, notably about the process to identify family members or relatives in accordance with Article 8(5) of this Regulation.

Amendment 62

Proposal for a regulation

Article 6 – paragraph 1 – introductory part

Text proposed by the Commission

1. As soon as an application for international protection is lodged within the meaning of Article 21(2) in a Member State, its competent authorities shall inform the applicant of the application of this Regulation and of the obligations set out in Article 4 as well as the consequences of non-compliance set out in Article 5 , and in particular :

Amendment

1. As soon as an application for international protection is **registered** within the meaning of Article [27] of **Regulation XXXX/XX/EU [Asylum Procedures Regulation]** in a Member State, its competent authorities shall inform the applicant of the application of this Regulation and of the obligations set out in Article 4 as well as the consequences of non-compliance set out in Article 5 , and in particular :

Amendment 63

Proposal for a regulation

Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) that the right to apply for international protection does not encompass **any** choice of the applicant which Member State shall be responsible for examining the application for international protection;

Amendment

(a) that the right to apply for international protection does not encompass **a** choice of the applicant which Member State shall be responsible for examining the application for international protection, **except when provided within the allocation mechanism under the terms of Chapter VII**;

Amendment 64

Proposal for a regulation

Article 6 – paragraph 1 – point b

Text proposed by the Commission

(b) of the objectives of this Regulation and the consequences of making another application in a different Member State as well as the consequences of leaving the Member State where he or she is obliged to be present during the phases in which the Member State responsible under this Regulation is being determined and the application for international protection is being examined, ***in particular that the applicant shall not be entitled to the reception conditions set out in Articles 14 to 19 of Directive 2013/33/EU in any Member State other than the one where he or she is required to be present, with the exception of emergency health care ;***

Amendment

(b) of the objectives of this Regulation and the consequences of making another application in a different Member State as well as the consequences of leaving the Member State where he or she is obliged to be present during the phases in which the Member State responsible under this Regulation is being determined and the application for international protection is being examined;

Amendment 65

Proposal for a regulation

Article 6 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) of the provisions relating to family reunification and, in that regard, of the applicable definition of family members and relatives as well as of the need for the applicant to disclose as soon as possible in the procedure any relevant information that could help to establish the whereabouts of family members or relatives present in other Member States, as well as any assistance that the Member State can offer with regard to the tracing of family members or relatives;

Amendment 66

Proposal for a regulation
Article 6 – paragraph 1 – point c b (new)

Text proposed by the Commission

Amendment

(cb) of the need for the applicant to disclose, as soon as possible, in the procedure any relevant information that could help to establish any prior residence permits, visas or educational diplomas;

Amendment 67

Proposal for a regulation
Article 6 – paragraph 1 – point c (new)

Text proposed by the Commission

Amendment

(cc) of the possibility under Article 19 to request the discretionary clause be applied by any Member State from the Member State where they are present, as well as of the specific arrangements relating to the procedure;

Amendment 68

Proposal for a regulation
Article 6 – paragraph 1 – point c d (new)

Text proposed by the Commission

Amendment

(cd) where applicable, of the allocation procedure set out in Chapter VII;

Amendment 69

Proposal for a regulation
Article 6 – paragraph 1 – point c e (new)

Text proposed by the Commission

Amendment

(ce) of the possibility for the applicant under Article 36(1c) to select one of the four Member States with the lowest number of applicants relative to their

share pursuant to the reference key as referred to in Article 35, as long as the applicant has complied with the obligations set out in Article 4(1);

Amendment 70

Proposal for a regulation

Article 6 – paragraph 1 – point d

Text proposed by the Commission

(d) of the personal interview pursuant to Article 7 ***and the obligation of submitting and substantiating information regarding the presence of family members, relatives or any other family relations in the Member States***, including the means by which the applicant can submit such information;

Amendment

(d) ***of the purpose*** of the personal interview pursuant to Article 7 ***as well as the type of information and evidence that the applicant will have to submit for the purpose of determining*** the Member State ***responsible***, including the means by which the applicant can submit such information;

Amendment 71

Proposal for a regulation

Article 6 – paragraph 1 – point e

Text proposed by the Commission

(e) of the possibility ***to challenge*** a transfer decision ***within 7 days after notification and of the fact that this challenge shall be limited to an assessment of whether Articles 3(2) in relation to the existence of a risk of inhuman or degrading treatment or Articles 10 to 13 and 18 are infringed upon*** ;

Amendment

(e) of the possibility ***of and arrangements for challenging*** a transfer decision ***and of the existence of the right to have an effective remedy before a court or tribunal in accordance with Article 28, including in a situation where no transfer decision is taken***;

Amendment 72

Proposal for a regulation

Article 6 – paragraph 1 – point h a (new)

Text proposed by the Commission

Amendment

(ha) in the case of an unaccompanied minor, of the role and responsibilities of the guardian and of the procedure to file complaints against a guardian in confidence and safety and in full respect of child's right to be heard in this respect;

Amendment 73

Proposal for a regulation

Article 6 – paragraph 1 – point h b (new)

Text proposed by the Commission

Amendment

(hb) of the right to request free legal assistance and representation at all stages of the procedure;

Amendment 74

Proposal for a regulation

Article 6 – paragraph 1 – point h c (new)

Text proposed by the Commission

Amendment

(hc) of the existence of the information website referred to in Article 6(3a);

Amendment 75

Proposal for a regulation

Article 6 – paragraph 1 – point i

Text proposed by the Commission

Amendment

(i) where applicable, of the allocation procedure set out in Chapter VII.

deleted

Amendment 76

Proposal for a regulation

Article 6 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The information referred to in paragraph 1 shall be provided ***in writing*** in a language that the applicant understands ***or is reasonably supposed to understand***. Member States shall use the common ***leaflet*** drawn up pursuant to paragraph 3 for that purpose.

Amendment

The information referred to in paragraph 1 shall be provided in a language that the applicant understands, ***in a concise, transparent, intelligible and easily accessible form, using clear and plain language***. Member States shall use the common ***information material*** drawn up pursuant to paragraph 3 for that purpose.

Amendment 77

Proposal for a regulation

Article 6 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The information shall be provided in writing and orally, where appropriate with the support of multimedia equipment. Oral information may be given either in individual or group sessions and applicants shall have the possibility to ask questions about the procedural steps they are expected to follow with regard to the process of determining a Member State responsible in accordance with this Regulation. In the case of minors, information shall be provided in a child-friendly manner in accordance with Article [5(2)] of Directive xxx/xxxx [Reception Conditions Directive], by appropriately trained staff and with the involvement of the guardian.

Amendment 78

Proposal for a regulation

Article 6 – paragraph 2 – subparagraph 2

Where necessary for the proper understanding of the applicant, the information shall also be supplied orally, for example in connection with the personal interview as referred to in Article 7.

deleted

Amendment 79

Proposal for a regulation Article 6 – paragraph 3

3. The ***Commission*** shall, ***by means of implementing acts***, draw up ***a common leaflet, as well as a specific leaflet for unaccompanied minors***, containing at least the information referred to in paragraph 1 of this Article. ***This common leaflet*** shall also include information regarding the application of Regulation (EU) [Proposal for a Regulation recasting Regulation No 603/2013] and, in particular, the purpose for which the data of an applicant may be processed within Eurodac. The common ***leaflet*** shall be established in such a manner as to enable Member States to complete it with additional Member State-specific information. ***Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2) of this Regulation.***

3. The ***European Union Agency for Asylum*** shall, ***in close cooperation with the responsible national agencies***, draw up common ***information material*** containing at least the information referred to in paragraph 1 of this Article. ***That common information material*** shall also include information regarding the application of Regulation (EU) [Proposal for a Regulation recasting Regulation No 603/2013] and, in particular, the purpose for which the data of an applicant may be processed within Eurodac. The common ***information material*** shall be established in such a manner as to enable Member States to complete it with additional Member State-specific information. ***The European Union Agency for Asylum shall create specific information material intended particularly for the following target groups:***

- (a) adult applicants;***
- (b) unaccompanied minors;***
- (c) accompanied minors.***

Amendment 80

Proposal for a regulation

Article 6 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. *The European Union Agency for Asylum shall provide a dedicated website with information about the CEAS, and, in particular, the functioning of this Regulation. The information on the website shall be comprehensive and up to date and shall be provided in a concise, transparent, intelligible and easily accessible form, using clear and plain language and available in all the major languages spoken by applicants arriving in the Union.*

Amendment 81

Proposal for a regulation

Article 6 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. *The competent authorities of the Member States shall keep the applicants informed of the progress of the procedures carried out under this Regulation with regard to their application. The information shall be provided in writing at regular intervals, at least every two weeks. In the case of minors, the competent authorities shall, in accordance with the same arrangements, inform both the minor and the parent or guardian.*

The Commission shall be empowered to adopt implementing acts to establish the arrangements for the provision of such information. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

Amendment 82

Proposal for a regulation

Article 6 a (new)

Text proposed by the Commission

Amendment

Article 6a

Right to free legal assistance and representation

1. Without prejudice to the applicant's right to choose his or her own legal representative at his or her own cost, Member States shall provide free legal assistance and representation on matters relating to the application of this Regulation at all stages of the procedure where the applicant concerned cannot afford the costs involved. Member States may request a total or partial reimbursement of the costs incurred where the decision to cover such costs was taken on the basis of false information supplied by the applicant, provided that it can be established that the applicant can afford the costs involved.

2. The legal assistance and representation shall, at least, include:

(a) the provision of information on the procedure in the light of the applicant's individual circumstances;

(b) assistance in the preparation of the personal interview and supporting documents and evidence to be provided as part of the interview, including participation in the personal interview;

(c) an explanation of the reasons for and consequences of a transfer decision as well as information as to how to challenge that decision or how to access remedies in situations where no transfer decision is taken pursuant to Article 28.

In complying with this paragraph, 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.

Procedures for access to legal assistance shall be laid down in national law.

Amendment 83

Proposal for a regulation Article 7 – paragraph 1

Text proposed by the Commission

1. In order to facilitate the process of determining the Member State responsible, the determining Member State shall conduct a personal interview with the applicant, *unless the applicant has absconded or the information provided by the applicant pursuant to Article 4(2) is sufficient for determining* the Member State responsible. The interview shall also allow the proper understanding of the information supplied to the applicant in *accordance with* Article 6.

Amendment

1. In order to facilitate the process of determining the Member State responsible, the determining Member State shall conduct a personal interview with the applicant. *The determining Member State shall proactively ask questions on all aspects of the claim that would allow for the determination of* the Member State responsible. The interview shall also allow the proper understanding of the information supplied to the applicant in Article 6.

Amendment 84

Proposal for a regulation Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The Member State may dispense with the personal interview where the information provided by the applicant pursuant to Article 4(2) is sufficient for determining the Member State responsible and where the applicant does not request to be heard. Where a Member State dispenses with the interview, it shall give the applicant the opportunity to present all further information which is relevant for correctly determining the Member State responsible before a final decision is taken to transfer the applicant to the Member State responsible pursuant to

Amendment 85

Proposal for a regulation Article 7 – paragraph 2

Text proposed by the Commission

2. The personal interview shall take place in a timely manner and, in any event, before any take charge request pursuant to Article 24 is made.

Amendment

2. The personal interview shall take place in a timely manner and, in any event, before any take charge request pursuant to Article 24 , ***or decision to transfer an applicant,*** is made.

Amendment 86

Proposal for a regulation Article 7 – paragraph 3

Text proposed by the Commission

3. The personal interview shall be conducted in a language that the applicant understands ***or is reasonably supposed to understand*** and in which he or she is able to communicate. Where necessary, Member States shall have recourse to ***an*** interpreter who is able to ensure appropriate communication between the applicant and the person conducting the personal interview.

Amendment

3. The personal interview shall be conducted in a language that the applicant understands and in which he or she is able to communicate. ***Interviews of unaccompanied minors shall be conducted in a child-friendly manner, by staff who are appropriately trained and qualified under national law, in the presence of the guardian and, where applicable, his or her legal advisor.***

Where necessary, Member States shall have recourse to ***a qualified*** interpreter, ***and where appropriate a cultural mediator,*** who is able to ensure appropriate communication between the applicant and the person conducting the personal interview. ***The applicant may request to be interviewed and assisted by staff of the same sex, provided that this is possible.***

Amendment 87

Proposal for a regulation

Article 7 – paragraph 4

Text proposed by the Commission

4. The personal interview shall take place under conditions which ensure appropriate confidentiality. It shall be conducted by a qualified person under national law.

Amendment

4. The personal interview shall take place under conditions which ensure appropriate confidentiality. It shall be conducted by a qualified person under national law. ***Applicants who are identified as being in need of special procedural guarantees should be provided with adequate support, including sufficient time, in order to create the conditions necessary for effectively presenting all elements that would allow for the determination of the Member State responsible.***

Amendment 88

Proposal for a regulation

Article 7 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The Member State shall ensure that there are appropriate standard operating procedures in place in order to ensure that appropriate protection measures are taken with respect to applicants at risk of being exploited for the purposes of trafficking in human beings or other organised crime activities.

Amendment 89

Proposal for a regulation

Article 7 – paragraph 5

Text proposed by the Commission

Amendment

5. The Member State conducting the personal interview shall make a written summary thereof which shall contain at least the main information supplied by the applicant at the interview. This summary ***may either*** take the form of a report ***or a***

5. The Member State conducting the personal interview shall make a written summary thereof which shall contain at least the main information supplied by the applicant at the interview. ***The main elements to be included in the summary***

standard form. The Member State shall ensure that the applicant and/or the legal advisor *or other counsellor* who is representing the applicant have *timely* access to the summary.

shall, by the end of the interview, be verified by the applicant, and, where relevant, by the guardian and/or legal representative. This summary *shall* take the form of a report. *The Member State shall make an audio recording of the interview*. The Member State shall ensure that the applicant and/or the *guardian*, the legal advisor who is representing the applicant have access to the summary *as soon as possible after the interview, and in any event before a transfer decision is taken*.

Amendment 90

Proposal for a regulation Article 8 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Each Member State where an unaccompanied minor is *obliged to be* present shall ensure that a *representative* represents and/or assists the unaccompanied minor with respect to *the relevant* procedures provided for in this Regulation. The *representative* shall have the qualifications *and* expertise to ensure that the best interests of the minor are taken into consideration during the procedures carried out under this Regulation. Such *representative* shall have access to the content of the relevant documents in the applicant's file including the specific *leaflet* for unaccompanied minors.

Amendment

Each Member State where an unaccompanied minor is present shall ensure that a *guardian* represents and/or assists the unaccompanied minor with respect to *all* procedures provided for in this Regulation. The *guardian* shall have the qualifications, *training*, expertise *and independence* to ensure that the best interests of the minor are taken into consideration during the procedures carried out under this Regulation. Such *a guardian* shall have access to the content of the relevant documents in the applicant's file including the specific *information material* for unaccompanied minors. *The guardian shall be appointed as soon as possible, but at the latest within 24 hours of the making of the application, and in any event prior to the collection of biometric data pursuant to Article [10(1) or 13(1)] of Regulation (EU) XXXX/XX/EU [Eurodac regulation]*.

Amendment 91

Proposal for a regulation

Article 8 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The guardian shall be involved in the process of establishing Member State responsibility under this Regulation to the greatest extent possible. To that end, the guardian shall support the minor to provide information relevant to the assessment of his or her best interests in accordance with paragraph 3, including the exercise of his or her right to be heard, and shall support his or her engagement with other actors, such as family tracing organisations, where appropriate for that purpose, and with due regard to confidentiality obligations to the minor.

The guardian shall ensure the minor has access to information, legal advice and representation concerning the procedures under this Regulation and shall keep the minor informed on the progress in the procedures under this Regulation concerning him or her.

The guardian shall have access to the content of the relevant documents in the minor's file including the specific information material for unaccompanied minors and the forms provided for in Article 6.

Guardians shall receive regular training and support to undertake their tasks.

Amendment 92

Proposal for a regulation

Article 8 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) the minor's well-being and social

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

development;

consideration his or her ethnic, religious, cultural and linguistic background and the need for stability and continuity in his or her care and custodial arrangements and access to health and education services;

Amendment 93

Proposal for a regulation

Article 8 – paragraph 3 – 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;

and exploitation.

Amendment

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

Amendment 94

Proposal for a regulation

Article 8 – paragraph 3 – point c a (new)

Text proposed by the Commission

Amendment

(ca) situations of vulnerability, including trauma, specific health needs and disability;

Amendment 95

Proposal for a regulation

Article 8 – paragraph 3 – point d a (new)

Text proposed by the Commission

Amendment

(da) the guarantee of a handover to a designated guardian in the receiving Member State;

Amendment 96

Proposal for a regulation

Article 8 – paragraph 3 – point d b (new)

Text proposed by the Commission

Amendment

(db) the information provided by the guardian in the Member State where the minor is present;

Amendment 97

Proposal for a regulation

Article 8 – paragraph 3 – point d c (new)

Text proposed by the Commission

Amendment

(dc) the need for decisions concerning minors to be treated with priority;

Amendment 98

Proposal for a regulation

Article 8 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

In assessing the best interests of the minor, the minor's right to be heard must be guaranteed.

Amendment 99

Proposal for a regulation

Article 8 – paragraph 4

Text proposed by the Commission

Amendment

4. Before transferring an unaccompanied minor to the Member State responsible or, where applicable, to the Member State of allocation, the transferring Member State shall ***make sure*** that the Member State responsible or the Member State of allocation takes the

4. Before transferring an unaccompanied minor to the Member State responsible or, where applicable, to the Member State of allocation, the transferring Member State shall ***obtain guarantees in each individual case*** that the Member State responsible or the

measures referred to in Articles 14 and 24 of Directive 2013/33/EU and Article 25 of Directive 2013/32/EU without delay. Any decision to transfer an unaccompanied minor shall be preceded by *an* assessment of his/her best interests. *The* assessment shall be based on the factors listed in paragraph 3. The assessment shall be done swiftly by *staff* with the qualifications and expertise to ensure that the best interests of the minor are taken into consideration.

Member State of allocation takes the measures referred to in Articles 14 and 24 of Directive 2013/33/EU and Article 25 of Directive 2013/32/EU without delay. Any decision to transfer *or not to transfer* an unaccompanied minor shall be preceded by *a multidisciplinary* assessment of his/her best interests. *That* assessment shall be based on the factors listed in paragraph 3 *and the conclusions of the assessment on each of the factors shall be clearly stated in the transfer decision*. The assessment shall be done swiftly by *a multidisciplinary team* with the qualifications and expertise to ensure that the best interests of the minor are taken into consideration. *The multidisciplinary assessment shall involve competent staff with expertise in rights of the child and child psychology and development and shall also include, as a minimum, the minor's guardian and legal advisor*.

Amendment 100

Proposal for a regulation

Article 8 – paragraph 5 – subparagraph 1

Text proposed by the Commission

For the purpose of applying *Article 10*, the Member State where the unaccompanied minor *lodged* an application for international protection shall, as soon as possible, take appropriate action to identify the family members or relatives of the unaccompanied minor on the territory of Member States, whilst protecting the best interests of the child.

Amendment 101

Proposal for a regulation

Article 8 – paragraph 5 – subparagraph 3

Text proposed by the Commission

Amendment

For the purpose of applying *Articles 10 and 19*, the Member State where the unaccompanied minor *makes* an application for international protection shall, as soon as possible, take appropriate action to identify the family members or relatives of the unaccompanied minor on the territory of Member States, whilst protecting the best interests of the child.

The staff of the competent authorities referred to in Article 47 who deal with requests concerning unaccompanied minors shall have received, and shall continue to receive, appropriate training concerning the specific needs of minors.

The staff of the competent authorities referred to in Article 47 who deal with requests concerning unaccompanied minors shall have received, and shall continue to receive, appropriate training concerning the specific needs of minors, ***including training on rights of the child and child psychology and development. Such training shall also include modules on risk assessment to target care and protection depending on the individual needs of the minor, with a specific focus on early identification of victims of trafficking in human beings and of abuse, as well as training on good practices to prevent disappearance.***

Amendment 102

Proposal for a regulation

Article 8 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Before the transfer of an unaccompanied minor, the receiving Member State shall appoint a guardian as soon as possible, but in any event within five working days of the confirmation of the transfer decision. The competent authorities shall communicate the information regarding the guardian appointed by the receiving Member State to the current guardian together with the arrangements for the transfer.

Amendment 103

Proposal for a regulation

Article 8 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. The Commission shall be empowered to adopt delegated acts in accordance with Article 57, supplementing this Regulation by laying

down, in accordance with this Article, the rules and procedures with regard to transnational cooperation for assessments regarding the child's best interests.

Amendment 104

Proposal for a regulation Article 8 a (new)

Text proposed by the Commission

Amendment

Article 8a

Costs of reception

- 1. The costs of reception of an applicant met by a determining Member State, from the time when the application for international protection was registered until the transfer of the applicant to the Member State responsible, or until the determining Member State assumes responsibility for the applicant, shall be refunded from the general budget of the Union.**
- 2. The costs of reception that are met by a Member State where an applicant is considered to be manifestly unlikely to qualify as a beneficiary of international protection pursuant to Article 9 shall be refunded from the general budget of the Union.**

Amendment 105

Proposal for a regulation Article 9 – paragraph 1

Text proposed by the Commission

Amendment

- 1. The criteria for determining the Member State responsible shall be applied *only once*, in the order in which they are set out in *this Chapter*.**

- 1. The criteria for determining the Member State responsible shall be applied only once, in the order in which they are set out in *Chapters III and IV*.**

Amendment 106

Proposal for a regulation Article 9 – paragraph 2

Text proposed by the Commission

2. The Member State responsible in accordance with the criteria set out in this Chapter shall be determined on the basis of the situation obtaining when the applicant first lodged his or her application for international protection with a Member State.

Amendment

2. The Member State responsible in accordance with the criteria set out in this Chapter shall be determined on the basis of the situation obtaining when the applicant first lodged his or her application for international protection with a Member State ***in accordance with Article [28] of Regulation (EU) xxx/xxxx [Asylum Procedures Regulation]***.

Amendment 107

Proposal for a regulation Article 9 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. If the authority responsible in the determining Member State, having conducted the personal interview foreseen in Article 7, concludes that a Member State responsible cannot be determined on the basis of Article 10, 11, 12, 13 or 18 and if the applicant is not in need of specific procedural guarantees in accordance with Article [19] of Regulation (EU) XXX/XXX [Asylum Procedures Regulation], the determining Member State shall, before applying any of the remaining criteria in accordance with Chapter III or IV, examine, prima facie, whether when lodging the application, the applicant has raised only issues that are not relevant to the examination of whether he or she may qualify as a beneficiary of international protection in accordance with Regulation (EU) XXX/XXX [Qualification Regulation]; and no other information indicating that he or she may qualify as a beneficiary of international protection is

provided or available to the determining Member State, thus making his or her claim to qualify for international protection clearly unconvincing.

In such a case the applicant should be considered manifestly unlikely to qualify as a beneficiary of international protection and the determining Member State shall be considered the Member State responsible, without prejudice to Article [37] of Regulation (EU) XXX/XXX [Asylum procedures Regulation].

Amendment 108

Proposal for a regulation Article 10 – paragraph 2

Text proposed by the Commission

2. The Member State responsible shall be that where a family member of the unaccompanied minor is legally present, ***provided that it is*** in the best interests of the minor. Where the applicant is a ***married*** minor ***whose spouse is not legally present on the territory of the Member States***, the Member State responsible shall be the Member State where the father, mother or other adult responsible for the minor, whether by law or by the practice of that Member State, or sibling is legally present.

Amendment

2. The Member State responsible shall be that where a family member of the unaccompanied minor is legally present, ***unless it is demonstrated that this is not*** in the best interests of the minor. Where the applicant is a minor, the Member State responsible shall be the Member State where the father, mother or other adult responsible for the minor, whether by law or by the practice of that Member State, or sibling is legally present.

Amendment 109

Proposal for a regulation Article 10 – paragraph 3

Text proposed by the Commission

3. Where the applicant ***is an unaccompanied minor who*** has a relative who is legally present in another Member State and where it is established, based on an individual examination, that the relative

Amendment

3. Where the applicant has a relative who is legally present in another Member State and where it is established, based on an individual examination, that the relative can take care of him or her, that Member

can take care of him or her, that Member State shall unite the minor with his or her relative and shall be the Member State responsible, ***provided that it is*** in the best interests of the minor.

State shall unite the minor with his or her relative and shall be the Member State responsible, ***unless it is demonstrated that this is not*** in the best interests of the minor.

Amendment 110

Proposal for a regulation Article 10 – paragraph 5

Text proposed by the Commission

5. In the absence of a family member or a relative as referred to in paragraphs 2 and 3, the Member State responsible shall be ***that where the unaccompanied minor first has lodged his or her application for international protection, unless it is demonstrated that this is not*** in the best interests of the minor.

Amendment

5. In the absence of a family member or a relative as referred to in paragraphs 2 and 3, ***and if no other criteria set out in Chapters III and IV, in particular Article 19, apply***, the Member State responsible shall be ***determined by the allocation mechanism set out in Chapter VII, provided that the minor is always granted the choice among the Member States of allocation in accordance with Article 36(1c). Any decision on the Member State responsible should be preceded by a multidisciplinary assessment of the best interests of the minor, including in case of allocation.***

Amendment 111

Proposal for a regulation Article 10 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Where a minor is accompanied by one parent, adult sibling or other adult who holds parental responsibility for the minor, whether by law or by the practice of that Member State, and one parent or other adult who holds parental responsibility for the minor, whether by law or by the practice of that Member State, is legally present in a Member

State, the Member State responsible shall be that where the parent or other adult who holds parental responsibility for the minor is legally present, provided that this is in the best interests of the minor.

Amendment 112

Proposal for a regulation Article 11 – title

Text proposed by the Commission

Family members who are *beneficiaries of international protection*

Amendment

Family members who *legally reside in a Member State*

Amendment 113

Proposal for a regulation Article 11 – paragraph 1

Text proposed by the Commission

Where the applicant has a family member, regardless of whether the family was previously formed in the country of origin, who *has been allowed to reside as a beneficiary of international protection* in a Member State, that Member State shall be responsible for examining the application for international protection, provided that the persons concerned expressed their desire in writing.

Amendment

Where the applicant has a family member, regardless of whether the family was previously formed in the country of origin, who *is legally residing* in a Member State, that Member State shall be responsible for examining the application for international protection, provided that the persons concerned expressed their desire in writing.

Amendment 114

Proposal for a regulation Article 13 – paragraph 1 – point a

Text proposed by the Commission

(a) responsibility for examining the applications for international protection of all the family members *and/or minor unmarried siblings* shall lie with the Member State which the criteria indicate is

Amendment

(a) responsibility for examining the applications for international protection of all the family members shall lie with the Member State which the criteria indicate is responsible for taking charge of the largest

responsible for taking charge of the largest number of them;

number of them;

Amendment 115

Proposal for a regulation

Article 14 – paragraph 1

Text proposed by the Commission

1. Where the applicant is in possession of a valid residence document or a residence document which has expired ***less than two years*** before lodging the first application, the Member State which issued the document shall be responsible for examining the application for international protection.

Amendment

1. Where the applicant is in possession of a valid residence document or a residence document which has expired before lodging the first application, the Member State which issued the document shall be responsible for examining the application for international protection.

Amendment 116

Proposal for a regulation

Article 14 – paragraph 2

Text proposed by the Commission

2. Where the applicant is in possession of a valid visa or a visa expired ***less than six months*** before lodging the first application, the Member State which issued the visa shall be responsible for examining the application for international protection, unless the visa was issued on behalf of another Member State under a representation arrangement as provided for in Article 8 of Regulation (EC) No 810/2009 of the European Parliament and of the Council²⁵. In such a case, the represented Member State shall be responsible for examining the application for international protection.

Amendment

2. Where the applicant is in possession of a valid visa or a visa expired before lodging the first application, the Member State which issued the visa shall be responsible for examining the application for international protection, unless the visa was issued on behalf of another Member State under a representation arrangement as provided for in Article 8 of Regulation (EC) No 810/2009 of the European Parliament and of the Council²⁵. In such a case, the represented Member State shall be responsible for examining the application for international protection.

²⁵ Regulation (EC) No 810/2009 of the European Parliament and of the Council, of 13 July 2009, establishing a Community

²⁵ Regulation (EC) No 810/2009 of the European Parliament and of the Council, of 13 July 2009, establishing a Community

Amendment 117

Proposal for a regulation Article 14 a (new)

Text proposed by the Commission

Amendment

Article 14a

Issue of academic or professional diplomas

1. Where the applicant is in possession of a diploma or other qualification issued by an education institution established in a Member State, that Member State shall be responsible for examining the application for international protection.

In this context, an education institution means any type of education institution recognised or considered as such in accordance with national law which, in accordance with national law or practice, offers recognised education degrees or other recognised qualifications, whatever such establishments may be called, or any institution which, in accordance with national law or practice, offers vocational education or training.

For the purpose of this Article only diplomas or other qualifications awarded as a result of the applicant's attendance at the education institution on the territory of the Member State shall be considered relevant for the purpose of assessing the Member State responsible. Online training or other forms of distance learning shall not be considered to be relevant.

2. Where the applicant is in possession of more than one diploma or other qualification issued by education institutions established in different Member States, the Member State in

which the most recent diploma or qualification was issued shall be responsible for examining the application for international protection.

Amendment 118

Proposal for a regulation Article 15 – paragraph 1

Text proposed by the Commission

Amendment

Where it is established, on the basis of proof or circumstantial evidence as described in the two lists mentioned in Article 25(4) of this Regulation, including the data referred to in Regulation [Proposal for a Regulation recasting Regulation (EU) No 603/2013], that an applicant has irregularly crossed the border into a Member State by land, sea or air having come from a third country, the Member State thus entered shall be responsible for examining the application for international protection.

deleted

Amendment 119

Proposal for a regulation Article 15 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Where it is not possible to determine the Member State responsible in accordance with the other criteria under Chapter III or IV, the Member State responsible shall be determined through the corrective allocation mechanism set out in Chapter VII.

Amendment 120

Proposal for a regulation Article 15 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

Ib. Where it is not possible to determine the Member State responsible in accordance with the other criteria under Chapter III or Article 18, and where it is established, on the basis of proof or circumstantial evidence, that an applicant has crossed the border into the Member State where the application for international protection was lodged, having come via another Member State, the Member State responsible for examining the application for international protection shall be determined in accordance with the procedure laid down in Article 24c.

Amendment 121

Proposal for a regulation

Article 16

Text proposed by the Commission

Amendment

Article 16

deleted

Visa waived entry

If a third-country national or a stateless person enters into the territory of a Member State in which the need for him or her to have a visa is waived, that Member State shall be responsible for examining his or her application for international protection.

Amendment 122

Proposal for a regulation

Article 17

Text proposed by the Commission

Amendment

Article 17

deleted

Application in an international transit

area of an airport

Where the application for international protection is made in the international transit area of an airport of a Member State by a third-country national or a stateless person, that Member State shall be responsible for examining the application.

Amendment 123

Proposal for a regulation Article 18 – paragraph 1

Text proposed by the Commission

1. Where, on account of pregnancy, a new-born child, serious illness, severe disability or old age, an applicant is dependent on the assistance of his or her child, sibling or parent legally resident in one of the Member States, or his or her child, sibling or parent legally resident in one of the Member States is dependent on the assistance of the applicant, Member States shall normally keep or bring together the applicant with that child, sibling or parent, ***provided that*** family ties existed ***in the country of origin***, that the child, sibling or parent or the applicant is able to take care of the dependent person and that the persons concerned expressed their desire in writing.

Amendment

1. Where, on account of pregnancy, a new-born child, serious illness, severe disability, ***severe trauma*** or old age, an applicant is dependent on the assistance of his or her child, sibling or parent legally resident in one of the Member States, or his or her child, sibling or parent legally resident in one of the Member States is dependent on the assistance of the applicant, Member States shall normally keep or bring together the applicant with that child, sibling or parent, ***insofar as the*** family ties ***already*** existed ***before the applicant arrived on the territory of the Member States***, that the child, sibling or parent or the applicant is able to take care of the dependent person and that the persons concerned expressed their desire in writing.

Amendment 124

Proposal for a regulation Article 18 a (new)

Text proposed by the Commission

Amendment

***Article 18a
Sponsorship***

1. A Member State may provide for organisations that have been approved by that Member State in accordance with specific requirements preventing abuse and trafficking in human beings provided for in national law to have the possibility to become the sponsor of an applicant who has lodged an application for international protection in the Union. The organisation sponsoring an applicant shall provide for his or her transfer and his or her stay in the Member State where the sponsor is established, until a final decision on his or her application for international protection.

2. On the basis of a written request by the sponsor, with the acceptance of the applicant, the determining Member State shall notify the Member State where the sponsor is established of the sponsorship agreement between the organisation and the applicant. If the Member State where the organisation is established accepts to take charge of the applicant, it shall become the Member State responsible, and the application for international protection shall be counted within its reference number as defined in Article 35.

3. A delegated act adopted according to the procedure laid down in Article 57(2) shall determine the formalities and the eligibility requirements to be satisfied by a sponsor and the other necessary arrangements.

Amendment 125

Proposal for a regulation Article 19 – paragraph 1 – subparagraph 1

Text proposed by the Commission

By way of derogation from Article 3(1) ***and only as long as no Member State has been determined as responsible***, each Member State may decide to examine an application for international protection

Amendment

By way of derogation from Article 3(1), each Member State may decide to examine an application for international protection lodged with it by a third-country national or a stateless person, even if such

lodged with it by a third-country national or a stateless person ***based on family grounds in relation to wider family not covered by Article 2(g)***, even if such examination is not its responsibility under the criteria laid down in this Regulation.

examination is not its responsibility under the criteria laid down in this Regulation.

Amendment 126

Proposal for a regulation

Article 19 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The Member State which decides to examine an application for international protection pursuant to this paragraph shall become the Member State responsible and shall assume the obligations associated with that responsibility. Where applicable, it shall inform the Member State previously responsible, the Member State conducting a procedure for determining the Member State responsible or the Member State which has been requested to take charge of the applicant.

Amendment

The Member State which decides to examine an application for international protection pursuant to this paragraph shall become the Member State responsible and shall assume the obligations associated with that responsibility. Where applicable, it shall, ***using the 'DubliNet' electronic communication network set up under Article 18 of Regulation (EC) No 1560/2003***, inform the Member State previously responsible, the Member State conducting a procedure for determining the Member State responsible or the Member State which has been requested to take charge of the applicant.

Amendment 127

Proposal for a regulation

Article 19 – paragraph 1 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

An applicant may request the Member State in which his or her application for international protection was lodged to apply this paragraph. Such a request shall be made in writing and shall be duly motivated.

Amendment 128

Proposal for a regulation

Article 19 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The Member State in which an application for international protection is *made* and which is carrying out the process of determining the Member State responsible may, at any time before a ***Member State responsible has been determined***, request another Member State to take charge of an applicant in order to bring together any family relations, even where that other Member State is not responsible under the criteria laid down in ***Articles 10 to 13 and 18***. The persons concerned must express their consent in writing.

Amendment

The Member State in which an application for international protection is *made* and which is carrying out the process of determining the Member State responsible, ***or the Member State responsible***, may, at any time before a ***first decision regarding substance is taken***, request another Member State to take charge of an applicant in order to bring together any family relations, ***on humanitarian grounds based in particular on family, cultural or social ties, language skills or other meaningful links which would facilitate his or her integration into that other Member State***, even where that other Member State is not responsible under the criteria laid down in ***Chapters III and IV***. The persons concerned must express their consent in writing.

Amendment 129

Proposal for a regulation

Article 19 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. An applicant may request a Member State in which the application for international protection was lodged to apply paragraph 2. Such a request shall be made in writing, shall be duly motivated and shall be addressed to the competent authorities of the determining Member State with which that application has been lodged. An applicant who represents a security risk or who is considered to be manifestly unlikely to qualify as a beneficiary of international protection shall not be entitled to avail him or herself of this procedure.

The competent authorities of the determining Member State shall ensure that a request as referred to in the first subparagraph of this paragraph is forwarded to the competent authorities responsible in the Member State requested by the applicant through the DubliNet electronic communication network set up under Article 18 of Regulation (EC) No 1560/2003.

The requested Member State shall indicate, within two weeks of receipt of the request, whether it intends to assume responsibility for the application for international protection. The requested Member State may extend the deadline by two additional weeks if this is notified to the Member State where the application for international protection was lodged in writing through the DubliNet electronic communication network. If a reply has not been received within that deadline the request shall be considered to have been rejected and the Member State where the application for international protection was lodged shall continue with the determination of the Member State responsible on the basis of the criteria set out in Chapters III and IV. Without prejudice to paragraph 1 or 2, applicants shall not be entitled to avail themselves of this procedure more than once.

Amendment 130

Proposal for a regulation Article 19 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. *Where the requested Member State accepts the request in accordance with paragraph 2a, it shall become the Member State responsible. The Member State where the application for international protection was lodged shall ensure that the applicant is transferred to the Member*

State responsible.

Amendment 131

Proposal for a regulation

Article 19 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2c. *The Commission shall, by means of implementing acts, draw up a common form to be used for the purpose of the procedure referred to in paragraph 2a. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).*

Amendment 132

Proposal for a regulation

Article 20 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) take charge, under the conditions laid down in Articles 24, 25 and 30, of an applicant who has lodged an application in a different Member State;

(a) take charge, under the conditions laid down in Articles 24, **24c**, 25 and 30, of an applicant who has lodged an application **for international protection** in a different Member State;

Amendment 133

Proposal for a regulation

Article 20 – paragraph 2

Text proposed by the Commission

Amendment

2. In a situation referred to in point (a) of paragraph 1, the Member State responsible shall examine or complete the examination of the application for international protection.

2. In a situation referred to in point (a) **or (b)** of paragraph 1, the Member State responsible shall examine or complete the examination of the application for international protection.

Amendment 134

Proposal for a regulation Article 20 – paragraph 3

Text proposed by the Commission

Amendment

3. *In a situation referred to in point (b) of paragraph 1, the Member State responsible shall examine or complete the examination of the application for international protection in an accelerated procedure in accordance with Article 31 paragraph 8 of Directive 2013/32/EU.* **deleted**

Amendment 135

Proposal for a regulation Article 20 – paragraph 4

Text proposed by the Commission

Amendment

4. *In a situation referred to in point (c) of paragraph 1, the Member State responsible shall treat any further representations or a new application by the applicant as subsequent application in accordance with Directive 2013/32/EU.* **deleted**

Amendment 136

Proposal for a regulation Article 20 – paragraph 5

Text proposed by the Commission

Amendment

5. In a situation referred to in point (d) of paragraph 1, *the decision taken by the responsible authority of the Member State responsible to reject the application shall no longer be subject to a remedy within the framework of Chapter V of Directive 2013/32/EU.*
5. In a situation referred to in point (d) of paragraph 1, *where the application for international protection has been rejected at first instance only*, the Member State responsible shall *ensure that the person concerned has or has had the opportunity to seek an effective remedy pursuant to Article 46 of Directive 2013/32/EU.*

Amendment 137

Proposal for a regulation Article 20 – paragraph 7

Text proposed by the Commission

7. The Member State responsible shall indicate in the electronic file referred to in Article 22(2) the fact that it is the Member State responsible.

Amendment

7. The Member State responsible shall, **where applicable**, indicate in the electronic file referred to in Article 22(2) the fact that it is the Member State responsible.

Amendment 138

Proposal for a regulation Article 21 – paragraph 1

Text proposed by the Commission

1. The process of determining the Member State responsible shall start as soon as an application for international protection is first **lodged** with a Member State, provided that the Member State of first application is not already the Member State responsible pursuant to Article 3(4) **or** (5).

Amendment

1. The process of determining the Member State responsible shall start as soon as an application for international protection is first **registered** with a Member State, provided that the Member State of first application is not already the Member State responsible pursuant to Article 3(5).

Amendment 139

Proposal for a regulation Article 21 – paragraph 2

Text proposed by the Commission

2. ***An application for international protection shall be deemed to have been lodged once a form submitted by the applicant or a report prepared by the authorities has reached the competent authorities of the Member State concerned. Where an application is not made in writing, the time elapsing between the statement of intention and the preparation of a report should be as short***

Amendment

deleted

as possible.

Amendment 140

Proposal for a regulation Article 21 – paragraph 5

Text proposed by the Commission

5. An applicant who is present in another Member State without a residence document or who there lodges an application for international protection after withdrawing his or her first application made in a different Member State during the process of determining the Member State responsible shall be taken back, under the conditions laid down in Articles 26 and 30, by the Member State with which that application for international protection was first lodged.

Amendment

5. An applicant who is present in another Member State without a residence document or who there lodges an application for international protection after withdrawing his or her first application made in a different Member State during the process of determining the Member State responsible shall be taken back, under the conditions laid down in Articles 26 and 30, by the Member State with which that application for international protection was first lodged, ***with a view to completing the process of determining the Member State responsible.***

Amendment 141

Proposal for a regulation Article 22 – paragraph 1 – point b

Text proposed by the Commission

(b) where applicable, links to the applications of family members ***or relatives*** travelling together;

Amendment

(b) where applicable, links to the applications of family members, ***relatives or groups of a maximum of 30 applicants requesting to be registered as*** travelling together, ***without prejudice to the right of individual examination of each application for international protection and with particular attention to applicants expressing signs of coercion, violence or abuse;***

Amendment 142

Proposal for a regulation

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Article 22 – paragraph 2

Text proposed by the Commission

2. Upon entry of the information pursuant to paragraph 1, the automated system referred to in Article 44 shall register each application under a unique application number, create an electronic file for each application and communicate the unique application number to the Member State of application.

Amendment

2. Upon entry of the information pursuant to paragraph 1, the automated system referred to in Article 44 shall register each application ***for international protection*** under a unique application number, create an electronic file for each application and communicate the unique application number to the Member State of application. ***The personal data contained in the unique application number as well as the electronic file shall be used only for the purposes of this Regulation and of Regulation (EU) xxx/xxx [Proposal for a Regulation recasting Regulation (EU) No 603/2013].***

Amendment 143

Proposal for a regulation Article 22 – paragraph 5

Text proposed by the Commission

5. The Member State with which the application is lodged shall search the VIS pursuant to Article 21 of Regulation (EC) 767/2008. Where a hit in the VIS indicates that the applicant ***is*** in possession of a valid visa ***or a visa expired less than six months*** before lodging the first application, the Member State shall indicate the visa application number and the Member State, the authority of which issued or extended the visa and whether the visa has been issued on behalf of another Member State.

Amendment

5. The Member State with which the application ***for international protection*** is lodged shall search the VIS pursuant to Article 21 of Regulation (EC) 767/2008. Where a hit in the VIS indicates that the applicant ***was*** in possession of a valid visa before lodging the first application, the Member State shall indicate the visa application number and the Member State, the authority of which issued or extended the visa and whether the visa has been issued on behalf of another Member State.

Amendment 144

Proposal for a regulation Article 23 – paragraph 1 – point a (new)

Text proposed by the Commission

Amendment

(aa) the total number of successful applications lodged in the Union;

Amendment 145

Proposal for a regulation

Article 23 – paragraph 1 – point a b (new)

Text proposed by the Commission

Amendment

(ab) the total number of successful applications lodged in each Member State;

Amendment 146

Proposal for a regulation

Article 23 – paragraph 2 – point h

Text proposed by the Commission

Amendment

(h) *where the allocation mechanism under Chapter VII applies*, the information referred to in Article 36(4) and point (h) of Article 39.

(h) the information referred to in Article 38 and point (h) of Article 39.

Amendment 147

Proposal for a regulation

Article 24 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

Where a Member State with which an application for international protection has been lodged considers that another Member State is responsible for examining the application, it shall, as quickly as possible and in any event within *one month* of the date on which the application was lodged within the meaning of Article 21(2), request that other Member State to take charge of the applicant.

Where a Member State with which an application for international protection has been lodged considers that another Member State is responsible for examining the application, it shall, as quickly as possible and in any event within *three months* of the date on which the application was lodged within the meaning of Article 21(2), request that other Member State to take charge of the applicant.

Amendment 148

Proposal for a regulation

Article 24 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Notwithstanding the first subparagraph, in the case of a Eurodac hit with data recorded pursuant to Article 13 of Regulation [Proposal for a Regulation recasting Regulation (EU) No 603/2013] or of a VIS hit with data recorded pursuant to Article 21(2) of Regulation (EU) 767/2008, the request shall be sent within **two weeks** of receiving that hit.

Amendment

Notwithstanding the first subparagraph, in the case of a Eurodac hit with data recorded pursuant to Article 13 of Regulation [Proposal for a Regulation recasting Regulation (EU) No 603/2013] or of a VIS hit with data recorded pursuant to Article 21(2) of Regulation (EU) 767/2008, the request shall be sent within **one month** of receiving that hit.

Amendment 149

Proposal for a regulation

Article 24 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

With regard to minors, for the purpose of calculating the deadlines referred to in the first and second subparagraphs of this paragraph, time shall start to run when a guardian has been appointed and when the best interests assessment pursuant to Article 8(3) has been concluded.

Amendment 150

Proposal for a regulation

Article 24 a (new)

Text proposed by the Commission

Amendment

Article 24a

Family reunification procedure

1. The determining Member State shall be responsible for conducting a special family reunification procedure for the applicant in order to ensure swift family reunification and access to the

asylum procedures for applicants where there are, prima facie, sufficient indicators showing that they are likely to have the right to family reunification in accordance with Article 10, 11, 12 or 13.

2. In establishing whether there are sufficient indicators that the applicant has family members and /or relatives in the Member State he or she claims, the determining Member State shall ensure that the applicant has understood the applicable definition of family members and/or relatives and ensure that the applicant is certain that the alleged family members and/or relatives are not present in another Member State. The determining Member State shall also ensure that the applicant understands that he or she will not be allowed to stay in the Member State where he or she claims to have family members and/or relatives unless such a claim can be verified by that Member State. If the information provided by the applicant does not give manifest reasons to doubt the presence of family members and/or relatives in the Member State indicated by the applicant, it shall be concluded that, prima facie, there are sufficient indicators that the applicant has family members and/or relatives in that Member State in order to meet the requirements of paragraph 1.

The competent authorities of the Member State where the applicant claims to have family members and/or relatives present shall assist the competent authorities of the determining Member State with answering any questions aimed at clarifying whether the alleged family links are correct.

3. If it is determined pursuant to paragraphs 1 and 2 that an applicant likely has, prima facie, the right of family reunification in accordance with Article 10, 11, 12 or 13, the determining Member State shall notify the Member State of allocation thereof and the applicant shall

be transferred to that Member State.

4. The determining Member State shall transfer all the information provided by the applicant to the Member State of allocation using the 'DubliNet' electronic communication network set up under Article 18 of Regulation (EC) No 1560/2003.

5. In accordance with the procedure referred to in paragraph 3, the Member State of allocation shall make the determination of whether the conditions for family reunifications in accordance with Article 10, 11, 12, or 13 are met. If this is the case, the Member State of allocation shall become the Member State responsible.

6. If it is determined that the conditions for family reunification are not met, the Member State of allocation shall ensure that the applicant is relocated to another Member State responsible in accordance with the procedure laid down in Article 24c.

Amendment 151

Proposal for a regulation Article 24 b (new)

Text proposed by the Commission

Amendment

Article 24b

Light procedure for Articles 14 and 14a

1. The determining Member State shall swiftly determine a Member State of allocation where there is, prima facie, sufficient indicators showing that an applicant has meaningful links in accordance with Article 14 or 14a with a particular Member State other than the determining Member State.

2. In establishing whether there is sufficient indicators showing that the applicant has meaningful links to a

particular Member State in accordance with Article 14 or 14a, the determining Member State shall base its determination on the evidence and other information provided by the applicant and shall consult relevant Union databases. The determining Member State shall also ensure that the applicant understands that he or she will not be allowed to stay in the Member State of allocation unless the evidence and information provided can be verified by that Member State. If the information provided by the applicant, or gathered through the relevant Union databases, does not give rise to manifest reasons to doubt that Article 14 or 14a applies for a particular Member State, the determining Member State shall conclude that, prima facie, there are sufficient indicators showing that the links in question meet the requirements of paragraph 1 of this Article.

The competent authorities of the Member State where the applicant could have a link in accordance with Article 14 or 14a shall assist the competent authorities of the determining Member State with answering any questions aiming to clarify whether the alleged links are correct.

3. If the determining Member State considers, pursuant to paragraphs 1 and 2, that a particular Member State is likely, prima facie, to be the Member State of allocation in accordance with Article 14 or 14a, the determining Member State shall notify the Member State of allocation and the applicant shall be transferred to that Member State.

4. The determining Member State shall transfer all the information provided by the applicant to the Member State of allocation using the 'DubliNet' electronic communication network set up under Article 18 of Regulation (EC) No 1560/2003.

5. The Member State of allocation shall, in accordance with the procedure

referred to in paragraph 3, determine whether the conditions in Article 14 or 14a are met. If so, the Member State of allocation shall become the Member State responsible.

6. If it is determined that the conditions are not met, the Member State of allocation shall ensure that the applicant is relocated to another Member State responsible in accordance with the procedure laid down in Article 24c.

Amendment 152

Proposal for a regulation Article 24 c (new)

Text proposed by the Commission

Amendment

Article 24c

Submitting a take charge notification

1. Where an applicant is to be transferred to another Member State pursuant to Article 15(2), Article 24a(5) or Article 24b(6) the Member State responsible shall be the Member State with the lowest number of applicants relative to their share pursuant to the reference key referred to in Article 35 at the time of the determination referred to in Article 15(2), Article 24a(5) or Article 24b(6).

2. Once the Member State responsible has been determined pursuant to paragraph 1, information to that effect shall be automatically entered into Eurodac and that Member State shall be informed by way of an automatic notification.

3. The Member State where the applicant is present shall inform the applicant of the determination pursuant to paragraph 2 and, in cooperation with the European Union Agency for Asylum, of the arrangements for the transfer.

4. *The Member State where the applicant is present shall transfer all the information provided by the applicant to the Member State responsible using the 'DubliNet' electronic communication network set up under Article 18 of Regulation (EC) No 1560/2003,*

5. *The European Union Agency for Asylum shall ensure the swift transfer of the applicant from the Member State where he or she is present to the Member State responsible.*

6. *The obligations set out in Articles 39, 40, 41 and 42 shall apply mutatis mutandis.*

Amendment 153

Proposal for a regulation Article 25 – paragraph 1

Text proposed by the Commission

1. The requested Member State shall make the necessary checks, and shall give a decision on the request to take charge of an applicant within **one month** of receipt of the request.

Amendment

1. The requested Member State shall make the necessary checks, and shall give a decision on the request to take charge of an applicant within **two weeks** of receipt of the request.

Justification

The amendment seeks to reasonably shorten the time of the procedure. In line with the introduction of a light family reunification procedure, a deadline of two weeks to answer to a take charge request seems sufficient.

Amendment 154

Proposal for a regulation Article 26 – paragraph 1

Text proposed by the Commission

1. In a situation referred to in Article 20(1)(b), (c), (d) or (e) the Member State where the person is present shall make a take back notification at the latest within

Amendment

1. In a situation referred to in Article 20(1)(b), (c), (d) or (e) the Member State where the person is present shall make a take back notification at the latest within

two weeks after receiving the Eurodac hit, and transfer that person to the Member State responsible .

one month after receiving the Eurodac hit, and transfer that person to the Member State responsible .

Amendment 155

Proposal for a regulation Article 27 – paragraph 1

Text proposed by the Commission

1. Where the requested Member State accepts to take charge of an applicant , the requesting Member State shall notify the applicant in writing *without delay* of the decision to transfer him or her to the Member State responsible and, where applicable, of not examining his or her application for international protection.

Amendment

1. Where the requested Member State accepts to take charge of an applicant , the requesting Member State shall notify the applicant in writing *within 5 days* of the decision to transfer him or her to the Member State responsible and, where applicable, of not examining his or her application for international protection.

Justification

This amendment is needed to maintain the logic of the text as it should serve to ensure the realisation of the applicant's procedural rights and an individual assessment of his or her circumstances. This amendment is inextricably linked to admissible amendments under the draft report aiming to strengthen the applicant's procedural rights.

Amendment 156

Proposal for a regulation Article 28 – paragraph 2

Text proposed by the Commission

2. Member States shall provide for a period *of 7 days* after the notification of a transfer decision within which the person concerned may exercise his or her right to an effective remedy pursuant to paragraph 1.

Amendment

2. Member States shall provide for a *reasonable* period, *of no less than 15 days*, after the notification of a transfer decision within which the person concerned may exercise his or her right to an effective remedy pursuant to paragraph 1.

Amendment 157

Proposal for a regulation Article 28 – paragraph 4

Text proposed by the Commission

Amendment

4. The scope of the effective remedy laid down in paragraph 1 shall be limited to an assessment of whether Articles 3(2) in relation to the existence of a risk of inhuman or degrading treatment or Articles 10 to 13 and 18 are infringed upon.

deleted

Amendment 158

Proposal for a regulation Article 28 – paragraph 5

Text proposed by the Commission

Amendment

5. Where no transfer decision referred to in paragraph 1 is taken, Member States shall provide for an effective remedy before a court or tribunal, where the applicant claims that ***a family member or, in the case of unaccompanied minors, a relative is legally present in a Member State other than the one which is examining his or her application for international protection, and considers therefore that other Member State as Member State*** responsible for examining the application.

5. Where no transfer decision referred to in paragraph 1 is taken, Member States shall provide for an effective remedy before a court or tribunal, where the applicant claims that ***another*** Member State ***is*** responsible for examining the application.

Amendment 159

Proposal for a regulation Article 28 – paragraph 6

Text proposed by the Commission

Amendment

6. Member States shall ensure that the person concerned has access to legal assistance and, where necessary, to linguistic assistance.

6. Member States shall ensure that the person concerned has access to ***free*** legal assistance ***in accordance with Article 6a*** and, where necessary, to linguistic assistance ***and, where appropriate, to intercultural mediation at all stages of the procedures.***

Amendment 160

Proposal for a regulation Article 28 – paragraph 7

Text proposed by the Commission

Amendment

7. Member States shall ensure that legal assistance is granted on request free of charge where the person concerned cannot afford the costs involved. Member States may 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.

deleted

Without arbitrarily restricting access to legal assistance, Member States may provide that free legal assistance and representation not be granted where the appeal or review is considered by the competent authority or a court or tribunal to have no tangible prospect of success.

Where a decision not to grant free legal assistance and representation pursuant to this paragraph is taken by an authority other than a court or tribunal, Member States shall provide the right to an effective remedy before a court or tribunal to challenge that decision. In case the decision is challenged, this remedy shall be an integral part of the remedy referred to in paragraph 1.

In complying with the requirements set out in this paragraph, 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.

Legal assistance shall include at least the preparation of the required procedural documents and representation before a court or tribunal and may be restricted to legal advisors or counsellors specifically

designated by national law to provide assistance and representation.

Procedures for access to legal assistance shall be laid down in national law.

Amendment 161

Proposal for a regulation Article 29 – paragraph 2

Text proposed by the Commission

2. When there is a **significant** risk of absconding, Member States may detain the person concerned in order to secure transfer procedures in accordance with this Regulation, on the basis of an individual assessment and only in so far as detention is proportional and other less coercive alternative measures cannot be applied effectively.

Amendment

2. When there is a **proven** significant risk of absconding, Member States may, **as a measure of last resort**, detain the person concerned in order to secure transfer procedures in accordance with this Regulation, on the basis of an individual assessment and only in so far as detention is proportional and other less coercive alternative measures cannot be applied effectively, **based on an individual assessment of the applicant's circumstances**.

Amendment 162

Proposal for a regulation Article 29 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Minors shall not be detained. Member States shall accommodate minors and families with minors in non-custodial, community-based placements while their application is processed.

Amendment 163

Proposal for a regulation Article 29 – paragraph 3 a (new)

3a. *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 and shall contain a reference to the consideration of the available alternatives and the reasons as to why they could not be applied effectively.*

Amendment 164

Proposal for a regulation Article 29 – paragraph 4

Text proposed by the Commission

Amendment

4. As regards the detention conditions and the guarantees applicable to persons detained, in order to secure the transfer procedures to the Member State responsible, Articles 9, 10 and 11 of Directive 2013/33/EU shall apply.

4. As regards the detention conditions, ***which shall fully respect the person's fundamental rights***, and the guarantees applicable to persons detained, in order to secure the transfer procedures to the Member State responsible, Articles 9, 10 and 11 of Directive 2013/33/EU shall apply.

Amendment 165

Proposal for a regulation Article 31 – paragraph 1

Text proposed by the Commission

Amendment

1. The costs necessary to transfer an applicant or another person as referred to in Article 20(1)(c), (d) or (e) to the Member State responsible shall be met by the ***transferring Member State***.

1. The costs necessary to transfer an applicant or another person as referred to in Article 20(1)(c), (d) or (e) to the Member State responsible shall be met by the ***general budget of the Union***.

Justification

As a further measure to improve incentives for every Member State to register all asylum applicants present on their territory without any delay and in order to ensure that Member States are not put in a position of additional financial costs for following the provisions of the regulation any transfer under this regulation shall be covered by the budget of the European Union.

Amendment 166

Proposal for a regulation Article 34 – paragraph 1

Text proposed by the Commission

1. The allocation mechanism referred to in this Chapter shall be applied for ***the benefit of*** a Member State, ***where that Member State is confronted with a disproportionate number of applications for international protection for which it is the Member State responsible under this Regulation.***

Amendment

1. The allocation mechanism referred to in this Chapter shall be applied for ***all the applications for which*** a Member state responsible could not be determined in accordance with the criteria set out in Chapters III and IV.

Amendment 167

Proposal for a regulation Article 34 – paragraph 2

Text proposed by the Commission

2. ***Paragraph 1 applies where the automated system referred to in Article 44(1) indicates that the number of applications for international protection for which a Member State is responsible under the criteria in Chapter III, Articles 3(2) or (3), 18 and 19, in addition to the number of persons effectively resettled, is higher than 150% of the reference number for that Member State as determined by the key referred to in Article 35.***

Amendment

deleted

Amendment 168

Proposal for a regulation Article 34 – paragraph 5

Text proposed by the Commission

5. ***The automated system shall continuously monitor whether any of the***

Amendment

deleted

Member States is above the threshold referred to in paragraph 2, and if so, notify the Member States and the Commission of this fact, indicating the number of applications above this threshold.

Amendment 169

Proposal for a regulation Article 34 – paragraph 6

Text proposed by the Commission

Amendment

6. *Upon the notification referred to in paragraph 5, the allocation mechanism shall apply.* **deleted**

Amendment 170

Proposal for a regulation Article 36 – paragraph 1

Text proposed by the Commission

Amendment

1. *Where the threshold referred to in Article 34(2) is reached, the automated system referred to in Article 44(1) shall apply the reference key referred to in Article 35 to those Member States with a number of applications for which they are the Member States responsible below their share pursuant to Article 35(1) and notify the Member States thereof.* **deleted**

Amendment 171

Proposal for a regulation Article 36 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. *Where the Member State responsible cannot be determined in accordance with the criteria set out in*

Chapters III and IV, the determining Member State shall communicate to the applicant that his or her application for international protection will be examined by a Member State of allocation.

Amendment 172

Proposal for a regulation Article 36 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. On the basis of the reference key referred to in Article 35, a short list of four Member States with the lowest number of applicants relative to their share pursuant to that reference key shall be determined by means of the automated system referred to in Article 44(1).

Amendment 173

Proposal for a regulation Article 36 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1c. The determining Member State shall communicate the short list referred to in paragraph 1b, together with information about the Member States on that short list, to the applicant. Within five days of that communication the applicant shall be given the opportunity to select a Member State of allocation among the four Member States included in the short list.

If the applicant does not select a Member State in accordance with the first subparagraph of this paragraph, the determining Member State shall allocate the applicant to the Member State on the short list with the lowest number of applicants relative to their share pursuant to the reference key referred to in Article

35 when the list was compiled in accordance with paragraph 1b of this Article.

Amendment 174

Proposal for a regulation Article 36 – paragraph 1 d (new)

Text proposed by the Commission

Amendment

1d. Paragraphs 1a, 1b and 1c shall apply mutatis mutandis in the case where applicants have registered as families, relatives or groups of applicants having requested to be registered as travelling together. In cases where a unanimous selection cannot be reached between the Members of the group, each of the Members of the former group shall be able to select a Member State of allocation, from the list drawn up for the former group, in accordance with paragraph 2. Where a selection is not communicated to the determining authorities within the five days, the applicant shall be allocated to the Member State with the lowest number of applicants relative to their share pursuant to the reference key referred to in Article 35 when the list was compiled in accordance with paragraph 1b.

Amendment 175

Proposal for a regulation Article 36 – paragraph 2

Text proposed by the Commission

Amendment

2. Applicants who lodged their application in the benefitting Member State after notification of allocation referred to in Article 34(5) shall be allocated to the Member States referred to in paragraph 1, and these Member States

deleted

shall determine the Member State responsible;

Amendment 176

Proposal for a regulation Article 36 – paragraph 3

Text proposed by the Commission

Amendment

3. Applications declared inadmissible or examined in accelerated procedure in accordance with Article 3(3) shall not be subject to allocation. *deleted*

Amendment 177

Proposal for a regulation Article 36 – paragraph 4

Text proposed by the Commission

Amendment

4. On the basis of the application of the reference key pursuant to paragraph 1, the automated system referred to in Article 44(1) shall indicate the Member State of allocation and communicate this information not later than 72 hours after the registration referred to in Article 22(1) to the benefitting Member State and to the Member State of allocation, and add the Member State of allocation in the electronic file referred to in Article 23(2). *deleted*

Amendment 178

Proposal for a regulation Article 37

Text proposed by the Commission

Amendment

Article 37

deleted

Financial solidarity

1. A Member State may, at the end of the three-month period after the entry into

force of this Regulation and at the end of each twelve-month period thereafter, enter in the automated system that it will temporarily not take part in the corrective allocation mechanism set out in Chapter VII of this Regulation as a Member State of allocation and notify this to the Member States, the Commission and the European Union Agency for Asylum.

2. The automated system referred to in Article 44(1) shall in that case apply the reference key during this twelve-month period to those Member States with a number of applications for which they are the Member States responsible below their share pursuant to Article 35(1), with the exception of the Member State which entered the information, as well as the benefiting Member State. The automated system referred to in Article 44(1) shall count each application which would have otherwise been allocated to the Member State which entered the information pursuant to Article 36(4) for the share of that Member State.

3. At the end of the twelve-month period referred to in paragraph 2, the automated system shall communicate to the Member State not taking part in the corrective allocation mechanism the number of applicants for whom it would have otherwise been the Member State of allocation. That Member State shall thereafter make a solidarity contribution of EUR 250,000 per each applicant who would have otherwise been allocated to that Member State during the respective twelve-month period. The solidarity contribution shall be paid to the Member State determined as responsible for examining the respective applications.

4. The Commission shall, by means of implementing acts, adopt a decision in accordance with the examination procedure referred to in Article 56, lay down the modalities for the implementation of paragraph 3.

5. *The European Union Agency for Asylum shall monitor and report to the Commission on a yearly basis on the application of the financial solidarity mechanism.*

Justification

The corrective allocation system is intended to balance the unfair sharing of responsibilities under a system that places a lot of efforts on frontline Member States. Allowing other Member States to buy themselves out from the system would not be fair to frontline Member States and for such a system to work the cost of the opt out would have to be so dissuasively high that it would become fundamentally unfair also to less economically strong Member States. Finally your rapporteur does not agree with the concept of Member States paying for avoiding a responsibility to assist people in need of international protection.

Amendment 179

**Proposal for a regulation
Article 38 – title**

Text proposed by the Commission

Obligations of the ***benefitting*** Member State

Amendment

Obligations of the ***determining*** Member State ***when applying the corrective allocation mechanism***

Amendment 180

**Proposal for a regulation
Article 38 – paragraph 1**

Text proposed by the Commission

The ***benefitting*** Member State shall:

Amendment

The ***determining*** Member State shall:

Amendment 181

**Proposal for a regulation
Article 38 – paragraph 1 – point a**

Text proposed by the Commission

(a) take a decision ***at the latest within one week from the communication referred to in Article 36(4) to transfer*** the

Amendment

(a) take a decision ***reflecting the choice of*** the applicant, ***or, following the expiration of the five-day period, in***

applicant *to* the Member State of allocation, *unless the benefiting* Member State *can accept within the same time limit responsibility for examining the application pursuant to the criteria set out in Articles 10 to 13 and Article 18;*

accordance with Article 36(1c). The determining Member State shall immediately communicate the decision to the automated system and the Member State of allocation, and add the Member State responsible in the electronic file referred to in Article 23(2).

Amendment 182

Proposal for a regulation

Article 38 – paragraph 1 – point b

Text proposed by the Commission

(b) notify without delay the applicant of the decision to transfer him or her to the Member State of allocation;

Amendment

(b) notify without delay the applicant *of the confirmation* of the decision to transfer him or her to the Member State of allocation;

Amendment 183

Proposal for a regulation

Article 38 – paragraph 1 – point c

Text proposed by the Commission

(c) transfer the applicant to the Member State of allocation, at the latest within *four* weeks from the final transfer decision.

Amendment

(c) *provide the necessary assistance in order to ensure that the European Union Agency for Asylum is able to* transfer the applicant to the Member State of allocation, at the latest within *two* weeks from the final transfer decision.

Amendment 184

Proposal for a regulation

Article 38 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) *transfer all the information provided by the applicant to the Member State responsible using the 'DubliNet' electronic communication network set up*

Amendment 185

**Proposal for a regulation
Article 39 – paragraph 1 – point a**

Text proposed by the Commission

(a) confirm to the *benefitting* Member State the receipt of the allocation communication and indicate the competent authority to which the applicant shall report following his or her transfer;

Amendment

(a) confirm to the *determining* Member State the receipt of the allocation communication and indicate the competent authority to which the applicant shall report following his or her transfer;

Amendment 186

**Proposal for a regulation
Article 39 – paragraph 1 – point b**

Text proposed by the Commission

(b) communicate to the *benefitting* Member State the arrival of the applicant or the fact that he or she did not appear within the set time limit;

Amendment

(b) communicate to the *determining* Member State the arrival of the applicant or the fact that he or she did not appear within the set time limit;

Amendment 187

**Proposal for a regulation
Article 39 – paragraph 1 – point c**

Text proposed by the Commission

(c) receive the applicant *and carry out the personal interview pursuant to Article 7, where applicable*;

Amendment

(c) receive the applicant;

Amendment 188

**Proposal for a regulation
Article 39 – paragraph 1 – point d**

Text proposed by the Commission

Amendment

(d) examine his or her application for international protection as Member State responsible, ***unless, according to the criteria set out in Articles 10 to 13 and 16 to 18, a different Member State is responsible for examining the application;***

(d) examine his or her application for international protection as Member State responsible;

Amendment 189

Proposal for a regulation

Article 39 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) ***where, according to the criteria set out in Articles 10 to 13 and 16 to 18 a different Member State is responsible for examining the application, the Member State of allocation shall request that other Member State to take charge of the applicant;***

deleted

Amendment 190

Proposal for a regulation

Article 39 – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) ***where applicable, communicate to the Member State responsible the transfer to that Member State;***

deleted

Amendment 191

Proposal for a regulation

Article 39 – paragraph 1 – point g

Text proposed by the Commission

Amendment

(g) ***where applicable, transfer the applicant to the Member State***

deleted

responsible;

Amendment 192

Proposal for a regulation

Article 39 – paragraph 1 – point h

Text proposed by the Commission

(h) *where applicable*, enter in the electronic file referred to in Article 23(2) that it will examine the application for international protection as Member State responsible.

Amendment

(h) enter in the electronic file referred to in Article 23(2) that it will examine the application for international protection as Member State responsible.

Amendment 193

Proposal for a regulation

Article 40 – paragraph 1

Text proposed by the Commission

1. Where a transfer decision according to point (a) of Article 38 is taken, the *benefitting* Member State shall transmit, at the same time and for the sole purpose of verifying whether the applicant may for serious reasons be considered a danger to the national security or public order, the fingerprint data of the applicant taken pursuant to Regulation (Proposal for a Regulation recasting Regulation 603/2013/EU) to the Member State of allocation.

Amendment

1. Where a transfer decision according to point (a) of Article 38 is taken, the *determining* Member State shall transmit, at the same time and for the sole purpose of verifying whether the applicant may for serious reasons be considered a danger to the national security or public order, the fingerprint data of the applicant taken pursuant to Regulation (Proposal for a Regulation recasting Regulation 603/2013/EU) to the Member State of allocation.

Amendment 194

Proposal for a regulation

Article 40 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Where, following a security verification, information on an applicant reveals that he or she is for serious reasons considered to be a danger to the national security or

Amendment

Where, following a security verification, information on an applicant reveals that he or she is for serious reasons considered to be a danger to the national security or

public order, information on the nature of the alert shall be shared with the law enforcement authorities in the *benefitting* Member State and shall not be communicated via the electronic communication channels referred to in Article 47(4).

public order, information on the nature of the alert shall be shared with the law enforcement authorities in the *determining* Member State and shall not be communicated via the electronic communication channels referred to in Article 47(4).

Amendment 195

Proposal for a regulation Article 40 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The Member State of allocation shall inform the *benefitting* Member State of the existence of such alert, specifying the law enforcement authorities in the Member State of application that have been fully informed, and record the existence of the alert in the automated system pursuant to point d of Article 23(2), within one week of receipt of the fingerprints.

Amendment

The Member State of allocation shall inform the *determining* Member State of the existence of such alert, specifying the law enforcement authorities in the Member State of application that have been fully informed, and record the existence of the alert in the automated system pursuant to point d of Article 23(2), within one week of receipt of the fingerprints.

Amendment 196

Proposal for a regulation Article 40 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. When the Member State of allocation considers that an applicant constitutes a danger to the national security or public order it shall transmit to the determining Member State the information required to corroborate this evaluation as well as any information which could be required by the determining Member State to take appropriate action with regard to the applicant.

Amendment 197

Proposal for a regulation
Article 40 – paragraph 3

Text proposed by the Commission

3. Where the outcome of the security verification confirms that the applicant may for serious reasons be considered a danger to the national security or public order, the **benefitting** Member State of application shall be the Member State responsible and shall examine the application in accelerated procedure pursuant to Article 31(8) of Directive 2013/32/EU.

Amendment

3. Where the outcome of the security verification confirms that the applicant may for serious reasons be considered a danger to the national security or public order, the **determining** Member State of application shall be the Member State responsible and shall examine the application **for international protection** in accelerated procedure pursuant to Article 31(8) of Directive 2013/32/EU. **If there is a risk of absconding, the determining Member State may take measures pursuant to Article 29.**

Amendment 198

Proposal for a regulation
Article 41 – paragraph 2

Text proposed by the Commission

2. Family members to whom the procedure for allocation applies shall be allocated to the same Member State.

Amendment

2. Family members **and relatives** to whom the procedure for allocation applies shall be allocated to the same Member State.

Amendment 199

Proposal for a regulation
Article 41 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Applicants to whom the procedure for allocation applies, who are registered as travelling together in accordance with point (b) of Article 22(1) but who are not a group of family members shall, to the extent possible, be allocated to the same Member State.

Justification

In the revised relocation model proposed by your rapporteur applicants would be able to be relocated in groups to Member States rather than only individually, this would however not entail a right of choice of destination and shall only be possible to the extent possible, in contrast with family members that shall always be transferred to the same Member State.

Amendment 200

Proposal for a regulation Article 42 – paragraph 1

Text proposed by the Commission

For the costs to transfer an applicant to the Member State of allocation, ***the benefitting Member State*** shall be refunded by a lump sum of EUR 500 for each person transferred pursuant to Article 38(c). ***This financial support shall be implemented by applying the procedures laid down in Article 18 of Regulation (EU) No 516/2014.***

Amendment

The costs to transfer an applicant to the Member State of allocation ***by the European Union Agency for Asylum*** shall be ***met by the general budget of the Union and be*** refunded by a lump sum of EUR 300 for each person transferred pursuant to Article 38(c).

Justification

Your rapporteur would suggest to move the responsibility for transfers under the Dublin regulation from Member States to the European Asylum Agency. The lowering of the 500€ compensation to 300€ would create important savings which should in the view of the rapporteur be invested in support for the system.

Amendment 201

Proposal for a regulation Article 43

Text proposed by the Commission

Article 43

Cessation of corrective allocation

The automated system shall notify the Member States and the Commission as soon as the number of applications in the benefitting Member State for which it is the Member State responsible under this Regulation is below 150 % of its share

Amendment

deleted

pursuant to Article 35(1).

Upon the notification referred to in paragraph 2, the application of the corrective allocation shall cease for that Member State.

Amendment 202

Proposal for a regulation Chapter VII a (new)

Text proposed by the Commission

Amendment

Chapter VIIa

Reciprocal solidarity

Article 43a

Suspension of the corrective allocation mechanism

1. If a Member State systematically refuses to fulfil its obligation to register potential applicants in accordance with Article 3(-1) and has declined assistance of the European Union Agency for Asylum which could have allowed the Member State to comply with its obligations under Article 3(-1), the Commission shall instruct the Agency to initiate a monitoring of that Member State in accordance with Article [14(2)] of Regulation (EU) XXXX/XX [EUAA Regulation] in order to establish whether it respects its obligations under Article 3(-1).

2. If the monitoring referred to in paragraph 1 concludes that the Member State systematically refuses to fulfil its obligations under Article 3(-1) and has declined assistance from the European Union Asylum Agency which could have allowed the Member State to comply with its obligations under Article 3(-1), the Council, on the basis of a proposal from the Commission, may adopt without delay a decision by means of an implementing act, suspending the application for that

Member State of the corrective allocation mechanism referred to in Article 34.

3. A decision to suspend the corrective allocation mechanism in accordance with paragraph 2 shall be valid for a specified period of no more than one year and may be renewed. When preparing and drawing up the implementing act, the Commission shall ensure the timely and simultaneous transmission of all documents, including the draft implementing act, to the European Parliament and to the Council. The European Parliament shall be informed without delay of all subsequent measures and decisions taken.

Article 43b

Coercive measures

1. If a Member State does not fulfil its obligations under Chapter VII, the procedure as provided for by Article [x] of Regulation (EU) 1303/2013[as modified by Regulation xxx] will apply.

2. If a Member State does not fulfil its obligations under Chapter VII it shall not be permitted to use Union funds to finance the return of third-country nationals to third countries and it shall report annually on its use of funds provided for pursuant to Regulations (EU) No 516/2014 and (EU) No 1303/2013.

Amendment 203

Proposal for a regulation

Article 44 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The interoperability of the automated system and Eurodac shall be ensured so as to enable the automatic transmission of information on the determination, through the corrective

mechanism, of the Member State of allocation.

Amendment 204

Proposal for a regulation Article 44 – paragraph 3

Text proposed by the Commission

3. The European agency for the operational management of large scale IT systems in the area of freedom, security and justice established by Regulation (EU) No 1077/2011 shall be responsible for the preparation, development and the operational management of the central system and the communication infrastructure between the central system and the national infrastructures.

Amendment

3. The European agency for the operational management of large scale IT systems in the area of freedom, security and justice established by Regulation (EU) No 1077/2011 shall be responsible for the preparation, development and the operational management of the central system, ***its interoperability with other systems*** and the communication infrastructure between the central system and the national infrastructures.

Amendment 205

Proposal for a regulation Article 45 – paragraph 1

Text proposed by the Commission

1. The competent asylum authorities of the Member States referred to in Article 47 shall have access to the automated system referred to in Article 44(1) for entering the information referred to in Article 20(7), Article 22(1), (4) and (5), Article 37(1) and point (h) of Article 39.

Amendment

1. The competent asylum authorities of the Member States referred to in Article 47 shall have access to the automated system referred to in Article 44(1) for entering the information referred to in Article 20(7), Article 22(1), (4) and (5), Article 37(1) and point (h) of Article 39, ***and for the procedure referred to in Article 36c.***

Amendment 206

Proposal for a regulation Article 47 – paragraph 3

Text proposed by the Commission

Amendment

3. The authorities referred to in paragraph 1 shall receive the necessary training with respect to the application of this Regulation.

3. The authorities referred to in paragraph 1 shall receive the necessary **regular** training with respect to the application of this Regulation, **including as regards the operating procedures for gathering relevant information and assessing the best interests of the child. Member States shall ensure the availability of specially trained staff, or specialised support services for staff, dedicated to the assessment of the best interests of the child in cases involving unaccompanied minors.**

Justification

The amendment aims at ensuring the presence of fully and specifically trained staff when dealing with particularly delicate issues such as the best interests of the child assessment.

Amendment 207

Proposal for a regulation Article 49 – paragraph 1

Text proposed by the Commission

The European Union Agency for Asylum shall set up and facilitate the activities of a network of the competent authorities referred to in Article 47 (1), with a view to enhancing practical cooperation and information sharing on all matters related to the application of this Regulation, including the development of practical tools and guidance.

Amendment

The European Union Agency for Asylum shall set up and facilitate the activities of a network of the competent authorities referred to in Article 47(1), with a view to enhancing practical cooperation and information sharing on all matters related to the application of this Regulation, including the development of practical tools and guidance. ***The competent authorities of candidate and potential candidate countries and of European Neighbourhood countries may be invited to cooperate with that network.***

Amendment 208

Proposal for a regulation Article 50 – paragraph 3

Text proposed by the Commission

Amendment

3. The processing of personal data by the European Union Agency for Asylum shall be subject to the monitoring of the European Data Protection Supervisor *in accordance with Regulation (EC) No 45/2001 and the provisions on data protection laid down in [Proposal for a Regulation on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010]*.

3. The processing of personal data by the European Union Agency for Asylum shall be subject to **Regulation (EC) No 45/2001 and the provisions on data protection laid down in Regulation (EU) xxx/xxx [Proposal for a Regulation on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010]**, *in particular as regards* the monitoring of the European Data Protection Supervisor.

Justification

Clarification that Regulation 45/2001 applies to the processing of personal data by the EUAA in general, and not only in the context of EDPS monitoring.

Amendment 209

Proposal for a regulation Article 53 – paragraph 2

Text proposed by the Commission

By way of derogation from Article 34(2), during the first three months after entry into force of this Regulation, the corrective allocation mechanism shall not be triggered. By way of derogation from Article 34(3), after ***the expiry of the three month period following*** the entry into force of this Regulation and until the expiry of one year following the entry into force of this Regulation, the reference period shall be the period which has elapsed since the entry into force of this Regulation.

Amendment

By way of derogation from Article 34(3), after the entry into force of this Regulation and until the expiry of one year following the entry into force of this Regulation, the reference period shall be the period which has elapsed since the entry into force of this Regulation.

Amendment 210

Proposal for a regulation Article 53 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

By way of derogation from Article 35 the reference key for the corrective allocation shall be calculated using the formula

referred to in Annex Ia during the first three years after ... [date of entry into force of this Regulation].

Amendment 211

Proposal for a regulation Article 58 – paragraph 1

Text proposed by the Commission

By [18 months after entry into force] and from then on annually, the Commission shall review the functioning of the **corrective** allocation mechanism set out in Chapter VII of this Regulation **and in particular the thresholds set out in Article 34(2) and Article 43 thereof.**

Amendment

By [18 months after entry into force] and from then on annually, the Commission shall review the functioning of the **corrective** allocation mechanism set out in Chapter VII of this Regulation.

Amendment 212

Proposal for a regulation Article 58 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The European Union Agency for Asylum shall, in consultation with appropriate expert bodies and organisations, conduct a stocktaking exercise of the capacity for the reception of unaccompanied minors in all Member States during the transitional period referred to in Article 53(2a) in order to identify deficiencies and to offer assistance to Member States in order to address those deficiencies.

Amendment 213

Proposal for a regulation Article 60 – paragraph 1

Text proposed by the Commission

Regulation (EU) No 604/2013 is repealed **for the Member States bound by this**

Amendment

Regulation (EU) No 604/2013 is repealed.

***Regulation as concerns their obligations
in their relations between themselves.***

Justification

The rapporteur is of the view that Member States with opt-outs should have a clear choice of either being within the Dublin-system or not, it would create unnecessary complications to let some Member States have the option of remaining in the Dublin III regulation when everyone else had moved on to Dublin IV.

Amendment 214

**Proposal for a regulation
Annex I a (new)**

Text proposed by the Commission

Amendment

Annex Ia

***Transitional arrangements for the
calculation of the reference key referred
to in Article 35***

- 1. For the purpose of the corrective allocation mechanism, the reference number for each Member State shall, during a transitional period as defined in this Annex, be determined by a combination of a baseline key and the reference key referred to in Article 35. That temporary reference key shall be referred to as the transitional reference key and shall apply instead of the reference key referred to in Article 35 during the transitional period.***
- 2. The baseline reference key referred to in paragraph 1 shall be calculated by adding the lodged applications, using Eurostat figures, in Member States for the years 2011, 2012, 2013, 2014 and 2016, divided by the total amount of lodged applications within all Member States during that period.***
- 3. The European Union Agency for Asylum shall establish the baseline reference key as well as the reference key referred to in Article 35.***

4. The transitional reference key shall be calculated as follows:

(a) from ... [date of entry into force of this Regulation] until the end of the first calendar year following the entry into force ('year X'), the transitional reference key shall be the same as the baseline reference key;

(b) in year X+1 the transitional reference key shall be composed of 67 % of the baseline reference key and 33 % of the reference key referred to in Article 35;

(c) in year X+2 the transitional reference key shall be composed of 33 % of the baseline reference key and 67% of the reference key referred to in Article 35;

5. Following the expiry of the period mentioned in point (c) of paragraph 4 of this Annex the reference key shall be calculated in accordance with Article 35.

6. During the application of the transitional arrangements laid down in this Annex, the European Union Asylum Agency shall, in accordance with the provisions of Article 14(1) (EUAA Regulation), monitor Member States with a baseline reference key value which is lower in comparison to the values pursuant to the reference key referred to in Article 35 and shall assist them in taking necessary measures to ensure the functioning of their asylum and reception systems.

EXPLANATORY STATEMENT

A bold but pragmatic proposal

The Dublin regulation determines which EU member state should be responsible for examining an application for international protection. The refugee crisis of 2015 showed clearly that the Dublin regulation needs a fundamental reform in order to enable a structured and dignified reception of asylum seekers in Europe, whilst at the same time allowing member states to effectively manage their borders. Since the flaws of the current Dublin regulation are of a fundamental and structural nature, only a fundamental and structural reform can properly address these issues.

The European Parliament is proposing a system that will work in practice, on the ground. In order to achieve this we need to ensure that both member states and applicants are incentivised to follow the rules within the Dublin system. Member states, which are all signatories to the Geneva Convention, will need to accept a fair sharing of the responsibility to receive asylum seekers in Europe. Applicants will need to accept that they do not have a free choice as regards the member state that will conduct the evaluation of their asylum claims.

The system proposed by the European Parliament would function in times of normal migratory flows as well as in times of crisis. It would also be able to cope with a crisis on any of the common borders of the union. The Council is clearly allowed to decide on this regulation by majority voting and their focus must now be on finding a system that will work on the ground, and not only one that can reach unanimity in the Council.

Main elements of the proposal

A permanent and automatic relocation mechanism, without thresholds

Applicants who have family members or who have links with a particular member state for example after having had a prior residence or having studied there shall be relocated to these member states. Applicants that lack such links with a particular member state shall be relocated through the corrective allocation system. The relocation system thus replaces the previous “fall-back-criterion” of the member state of first entry. The system applies at all times, not only in times of crisis and with no thresholds as suggested by the European Commission.

Registration of applicants directly on arrival and security

The European Parliament position includes strong incentives for both member states and applicants to register immediately on arrival in the EU. This will allow our authorities to have a much better control over who is present on our territory. The proposal also requires mandatory security controls of all applicants with checks against relevant national and European databases. Applicants that pose a security risk will not be transferred to other countries.

Appropriate procedures in the first Member States of arrival

The current Dublin regulation places an unreasonable burden on the first member state of arrival. The procedures need to be fast and ensure that applicants that need to be relocated to

other member states are moved quickly. A light procedure for family reunification and other genuine links is therefore introduced.

Support from the EU-budget and EU Asylum Agency (EUAA)

The European Parliament is of the view that the reception costs for applicants during the Dublin-phase of the procedures should be assumed by the EU-budget in order not to unfairly burden those member states that will have to perform a large number of these procedures. The European Parliament is also of the view that the responsibility for transferring applicants as a result of decisions under the Dublin regulation should be transferred to the EUAA.

The calculation of the fair responsibility

The fair share of each member state in the relocation system is calculated based on the GDP and population. This ensures that larger and wealthier countries will have a larger share than smaller and less wealthy countries. Applicants will be transferred through the corrective allocation system to those member states that have received the fewest applicants in relation to their fair share.

Functioning of the collective allocation system

Applicants that do not have genuine links with a particular member state will be subject to relocation. As long as the applicant has registered in the first member state of entry in the Union, he or she will be given the option to choose between the four member states which have received the lowest amount of applicants in relation to their fair share. Since these 'lowest amount' member states will be constantly changing as applicants are registered in the system, it will not be possible for an applicant to know which four member states will be available to choose from when deciding to seek protection in Europe. The system should thus not constitute a "pull-factor" but the limited choice gives the applicant some say in the procedure and should thus reduce the risk of secondary movements.

Applicants will also be allowed to register as groups of maximum 30 people. Registering as a group does not give applicants a right to seek protection in a specific country, as in the case for example of family ties, but it gives applicants that have formed close bonds either before leaving their home country or during the journey to remain together and be transferred to the same Member State. This should also reduce risks of secondary movements.

The possibility to choose between the four member states with the lowest number of applicants in relation to their fair share as well as the possibility to be relocated as a group only applies if the applicant registers in the member state of first entry.

Giving Member States a chance to succeed with the new asylum system

The European Parliament has included a three-year transition period during which member states which have historically received many asylum-seekers will continue to shoulder a greater responsibility and where member states with a more limited experience of welcoming asylum seekers would start with a lower share of the responsibility. During these three years the member states will then automatically see their shares move towards the fair share. Support and monitoring from the EU Asylum Agency will ensure that all member states have the capacity to succeed in implementing effectively the fair common European asylum system.

Tackling secondary movements

It is important to ensure that applicants remain in the member state that is responsible for

assessing their application for international protection. In order to reach this goal, the loopholes that have until now allowed for a shift of responsibility between member states have been removed. The Dublin regulation will enable a swift determination of a responsible member state and it will then effectively become impossible for the applicant to alter that. The only path to international protection within Europe for them will be to remain in the responsible member state.

A filter for applicants with very small chances of receiving protection

In order to know if an applicant for international protection fulfils the requirements to receive protection, thus separating them from so called “economic migrants”, it is necessary to assess their claim on an individual basis. This is a complex process which is done in the responsible Member State.

It is not however in the interest of a well-functioning asylum system to relocate applicants with next to no chances of receiving international protection. At the same time a system that would place too heavy burdens on frontline member states would not work in practice. A carefully calibrated “filter” for applicants that have very low chances of receiving international protection is therefore included in the proposal.

These applicants would not be relocated but their applications would be treated in the member state of first entry which would receive additional EU-support to deal with them. The system thus respects the right to a fair asylum procedure for the applicant as well as the interests of having an effective asylum system, without creating undue burdens on frontline member states or unnecessary relocations.

Incentivise applicants to remain within the official system

Through a radically improved provision of information, legal aid and support for applicants for international protection, combined with more effective procedures, applicants will be incentivised to cooperate with the authorities.

Safeguards for minors

The European Parliament has placed a great emphasis on securing strong safeguards for minors, both accompanied and unaccompanied. Among the main provisions are strengthened rules on best interest assessments, strict requirements on the provision of guardians and the provision of adapted information to children. No transfers of unaccompanied minors will be made without a best-interest assessment by a multidisciplinary team and the presence of a guardian in the receiving member state.

Ensuring full participation of all Member States

The European Parliament assumes that all EU member states respect democratic decision making, also in cases where they are not in favour of the outcome. In order to ensure that member states are incentivised to follow the rules, coercive measures directed at member states which would not follow the rules have been included. Frontline member states that refuse to register applicants would see the relocation of applicants from their territory stop. Member states refusing to accept relocation of applicants to their territory would face limits on their access to EU-funds and would not be able to use EU-funds for returns of applicants that had their asylum claims rejected.

ANNEX: LETTER FROM THE COMMITTEE ON LEGAL AFFAIRS

Ref. D(2016)51537

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

**Subject: Proposal for a regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)
(COM(2016)0270 – C8-0173/2016 – 2016/0133(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 only if they concern those parts of the proposal which contain changes.

However, if in accordance with point 8 of the Interinstitutional Agreement, the committee responsible intends also to submit amendments to the codified parts of the proposal, it shall immediately notify its intention to the Council and to the Commission, and the latter should inform the committee, prior to the vote pursuant to Rule 58, of its position on the amendments and whether or not it intends to withdraw the recast proposal."

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 draftsman, 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 29 November 2016, the Committee on Legal Affairs decided by 12 votes in favour and 2 votes against and 1 abstention¹ 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.

¹ The following Members were present: Max Andersson, Joëlle Bergeron, Marie-Christine Boutonnet, Daniel Buda, Jean-Marie Cavada, Kostas Chrysogonos, Therese Comodini Cachia, Mady Delvaux, Angel Dzhambazki, Rosa Estaràs Ferragut, Lidia Joanna Geringer de Oedenberg, Mary Honeyball, Dietmar Köster, António Marinho e Pinto, Angelika Niebler, Emil Radev, Julia Reda, Evelyn Regner, Virginie Rozière, Pavel Svoboda, Axel Voss, Kosma Zlotowski, 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, 6 October 2016

OPINION

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

**Proposal for a regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.
COM(2016)0270 of 4.5.2016 – 2016/0133(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 25 May and 7 July 2016 for the purpose of examining, among others, the aforementioned proposal submitted by the Commission.

At those meetings, an examination of the proposal for a Regulation of the European Parliament and of the Council recasting Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person resulted in the Consultative Working Party's establishing, by common accord, that the following should have been marked with the grey-shaded type generally used for identifying substantive changes:

- in Article 1, the proposed adding of the word 'single';
- in paragraphs 5 and 6 of Article 8, the proposed deletion of the word 'siblings';
- in Article 10(1), the word 'only';
- in Article 10(2), the proposed deletion of the words 'or a sibling';
- in Article 13, introductory wording, the proposed deletion of the words 'and/or minor

unmarried siblings';

- the entire text of Annex I.

In consequence, examination of the proposal has enabled the Consultative Working Party to conclude, 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

OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)
(COM(2016)0270 – C8-0173/2016 – 2016/0133(COD))

Rapporteur: Ramona Nicole Mănescu

AMENDMENTS

The Committee on Foreign 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 regulation **Recital 9 a (new)**

Text proposed by the Commission

Amendment

(9a) In order to prevent applicants whose applications are inadmissible, or who are unlikely to require international protection, from undertaking a potentially dangerous journey from their country of origin to a Member State, the European Union Agency for Asylum, in cooperation with the Commission and the Member States, should ensure that potential migrants are informed about the legal entry routes into the Union and the risks of illegal migration.

Justification

This amendment aims at preventing illegal migration and to reduce the bulk of asylum requests based on misinformed grounds.

Amendment 2

Proposal for a regulation

Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) The difficulties concerning the management of the migration flow encountered at reception and sorting centres ('hotspots') in the Member States of first arrival demonstrate the need for a more cooperative and concrete approach.

Justification

This amendment underlines the justifications for a common EU approach.

Amendment 3

Proposal for a regulation

Recital 17

Text proposed by the Commission

Amendment

(17) In order to prevent that applicants with inadmissible claims or who are likely not to be in need of international protection, or who represent a security risk are transferred among the Member States, it is necessary to ensure that the Member where an application is first lodged verifies the admissibility of the claim in relation to the first country of asylum and safe third country, examines in accelerated procedures applications made by applicants coming from a safe country of origin designated on the EU list, as well as applicants presenting security concerns.

deleted

Amendment 4

Proposal for a regulation

Recital 20

Regulation (EU) 604/2013

Recital 16

Text proposed by the Commission

(20) In order to ensure full respect for the principle of family unity and for the best interests of the child, the existence of a relationship of dependency between an applicant and his or her child, sibling or parent on account of the applicant's pregnancy or maternity, state of health or old age, should become a binding responsibility criterion. When the applicant is an unaccompanied minor, the presence of a family member or relative on the territory of another Member State who can take care of him or her should also become a binding responsibility criterion. In order to discourage secondary movements of unaccompanied minors, which are not in their best interests, in the absence of a family member or a relative, the Member State responsible should be that where the unaccompanied minor first has lodged his or her application for international protection, unless it is demonstrated that this would not be in the best interests of the child. Before transferring an unaccompanied minor to another Member State, the transferring Member State should make sure that that Member State will take all necessary and appropriate measures to ensure the adequate protection of the child, and in particular the prompt appointment of a representative or representatives tasked with safeguarding respect for all the rights to which they are entitled. Any decision to transfer an unaccompanied minor should be preceded by an assessment of his/her best interests by staff with the necessary qualifications and expertise.

Amendment

(20) In order to ensure full respect for the principle of family unity and for the best interests of the child, the existence of a relationship of dependency between an applicant and his or her child, sibling or parent on account of the applicant's pregnancy or maternity, state of health or old age, should become a binding responsibility criterion. When the applicant is an unaccompanied minor, the presence of a family member or relative on the territory of another Member State who can take care of him or her should also become a binding responsibility criterion. ***Separated children, who are also legally considered as unaccompanied minors, represent a distinct category that should require specific attention.*** In order to discourage secondary movements of unaccompanied minors, which are not in their best interests, in the absence of a family member or a relative, the Member State responsible should be that where the unaccompanied minor first has lodged his or her application for international protection, unless it is demonstrated that this would not be in the best interests of the child. Before transferring an unaccompanied minor to another Member State, the transferring Member State should make sure that that Member State will take all necessary and appropriate measures to ensure the adequate protection of the child, and in particular the prompt appointment of a representative or representatives tasked with safeguarding respect for all the rights to which they are entitled. Any decision to transfer an unaccompanied minor should be preceded by an assessment of his/her best interests by staff with the necessary qualifications and expertise.

Amendment 5

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) In order to ensure that the aims of this Regulation are achieved and obstacles to its application are prevented, in particular in order to avoid absconding and secondary movements between Member States, it is necessary to establish clear obligations to be complied with by the applicant in the context of the procedure, of which he or she should be duly informed in a timely manner. ***Violation of those legal obligations should lead to appropriate and proportionate procedural consequences for the applicant and to appropriate and proportionate consequences in terms of his or her reception conditions. In line with the Charter of Fundamental Rights of the European Union, the Member State where such an applicant is present should in any case ensure that the immediate material needs of that person are covered.***

Amendment

(22) In order to ensure that the aims of this Regulation are achieved and obstacles to its application are prevented, in particular in order to avoid absconding and secondary movements between Member States, it is necessary to establish clear obligations to be complied with by the applicant in the context of the procedure, of which he or she should be duly informed in a timely manner. ***Failure to comply with those obligations should not prejudice the right of the applicant to a fair and equitable process or entail unnecessary, inappropriate and disproportionate consequences in terms of his or her reception conditions. In line with the Charter of Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Member State where such an applicant is present should in any case ensure that the immediate basic needs of that person are covered.***

Amendment 6

Proposal for a regulation

Recital 24

Regulation (EU) 604/2013

Recital 19

Text proposed by the Commission

(24) In order to guarantee effective protection of the rights of the persons concerned, legal safeguards and the right to an effective remedy in respect of decisions regarding transfers to the Member State

Amendment

(24) ***Any person subject to this regulation should have the rights to an effective remedy, in the form of an appeal or review, pursuant to the applicable legislation in fact and in law.*** In order to

responsible should be established, in accordance, in particular, with Article 47 of the Charter of Fundamental Rights of the European Union. An effective remedy should also be provided in situations when no transfer decision is taken but the applicant claims that another Member State is responsible on the basis that he has a family member or, for unaccompanied minors, a relative in another Member **State**. In order to ensure that international law *is* respected, an effective remedy against such decisions should cover both the examination of the application of this Regulation and of the legal and factual situation in the Member State to which the applicant is transferred. The scope of the effective remedy should be *limited to* an assessment of whether applicants' fundamental rights to respect of family life, the rights of the child, or the prohibition of inhuman and degrading treatment risk to be infringed upon.

guarantee effective protection of the rights of the persons concerned, legal safeguards and the right to an effective remedy in respect of decisions regarding transfers to the Member State responsible should be established, in accordance, in particular, with Article 47 of the Charter of Fundamental Rights of the European Union. An effective remedy should also be provided in situations when no transfer decision is taken but the applicant claims that another Member State is responsible on the basis that *she or* he has a family member or, for unaccompanied minors, a relative in another Member. In order to ensure that international law *and the relevant case-law of the Court of Justice of the European Union as well as of the European Court of Human Rights are* respected, an effective remedy against such decisions should cover both the examination of the application of this Regulation and of the legal and factual situation in the Member State to which the applicant is transferred *or returned*. The *main* scope of the effective remedy should be an assessment of whether applicants' fundamental rights to respect of family life, the rights of the child, or the prohibition of inhuman and degrading treatment risk to be infringed upon.

Justification

By starting the recital on the right to an effective remedy and by referring to the ECJ and ECHR case-law, the amendment aims to strengthen this right.

Amendment 7

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) In order to ensure the speedy determination of responsibility and allocation of applicants for international protection between Member States, the

Amendment

(26) In order to ensure the speedy determination of responsibility and allocation of applicants for international protection between Member States, the

deadlines for making and replying to requests to take charge, for making take back notifications, and for carrying out transfers, as well as for making and deciding on appeals, should be streamlined and shortened to the greatest extent possible.

deadlines for making and replying to requests to take charge, for making take back notifications, and for carrying out transfers, as well as for making and deciding on appeals, should be shortened to the greatest extent possible, *while respecting the fundamental rights of applicants, the rights of vulnerable persons, in particular the rights of the child and the fundamental principle of the best interests of the child as well as the right to family reunification.*

Amendment 8

Proposal for a regulation Recital 32

Text proposed by the Commission

(32) A key based on the size of the population **and of** the economy of the Member States should be applied as a point of reference in the operation of the corrective allocation mechanism in conjunction with a threshold, so as to enable the mechanism to function as a means of assisting Member States under disproportionate pressure. The application of the corrective allocation for the benefit of a Member State should be triggered automatically where the number of applications for international protection for which a Member State is responsible exceeds 150% of the figure identified in the reference key. In order to comprehensively reflect the efforts of each Member State, the number of persons effectively resettled to that Member State should be added to the number of applications for international protection for the purposes of this calculation.

Amendment

(32) A key based on the size of the population, **on** the economy of the Member States, **and on the degree of stability in the third countries neighbouring them** should be applied as a point of reference in the operation of the corrective allocation mechanism in conjunction with a threshold, so as to enable the mechanism to function as a means of assisting Member States under disproportionate pressure. The application of the corrective allocation for the benefit of a Member State should be triggered automatically where the number of applications for international protection for which a Member State is responsible exceeds 150% of the figure identified in the reference key. In order to comprehensively reflect the efforts of each Member State, the number of persons effectively resettled to that Member State should be added to the number of applications for international protection for the purposes of this calculation.

Amendment 9

Proposal for a regulation

Recital 42

Text proposed by the Commission

(42) A network of competent Member State authorities should be set up and facilitated by the European Union Agency for Asylum to enhance practical cooperation and information sharing on all matters related to the application of this Regulation, including the development of practical tools and guidance.

Amendment

(42) A network of competent Member State authorities should be set up and facilitated by the European Union Agency for Asylum to enhance practical cooperation and information sharing on all matters related to the application of this Regulation, including the development of practical tools and guidance. ***That network should be able to collaborate with the authorities of transit countries, countries of origin, candidate and potential candidate countries, European Neighbourhood countries, as well as with international organisations, in particular the United Nations Agencies, as well as non-governmental organisations.***

Amendment 10

Proposal for a regulation

Recital 52

Text proposed by the Commission

(52) In order to assess whether the corrective allocation mechanism in this Regulation is meeting the objective of ensuring a fair sharing of responsibility between Member States and of relieving disproportionate pressure on certain Member States, the Commission should review the functioning of the corrective allocation mechanism and in particular verify that the threshold for the triggering and cessation of the corrective allocation effectively ensures a fair sharing of responsibility between the Member States and a swift access of applicants to procedures for granting international protection in situations when a Member State is confronted with a disproportionate

Amendment

(52) In order to assess whether the corrective allocation mechanism in this Regulation is meeting the objective of ensuring a fair sharing of responsibility between Member States and of relieving disproportionate pressure on certain Member States, the Commission should review the functioning of the corrective allocation mechanism and in particular verify that the threshold for the triggering and cessation of the corrective allocation effectively ensures a fair sharing of responsibility between the Member States and a swift access of applicants to procedures for granting international protection in situations when a Member State is confronted with a disproportionate

number of applications for international protection for which it is responsible under this Regulation.

number of applications for international protection for which it is responsible under this Regulation. ***In this regard, the Commission should publish at regular intervals the number of applications for international protection received in each Member State, including the positive response rate, the origin of the applicants and the processing time for each application.***

Amendment 11

Proposal for a regulation

Article 2 – paragraph 1 – point j

Regulation (EU) 604/2013

Article 2 – paragraph 1 – point j

Text proposed by the Commission

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

Amendment

(j) ‘unaccompanied minor’ means a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her, whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such an adult; it includes a minor who is left unaccompanied after he or she has entered the territory of Member States, ***as well as minors who have been separated from both parents or from their previous legal or customary primary care-giver;***

Justification

This amendment aims at broadening the scope of the definition of “unaccompanied minors”.

Amendment 12

Proposal for a regulation

Article 3 – paragraph 3

Text proposed by the Commission

3. Before applying the criteria for determining a Member State responsible

Amendment

deleted

in accordance with Chapters III and IV, the first Member State in which the application for international protection was lodged shall:

(a) examine whether the application for international protection is inadmissible pursuant to Article 33(2) letters b) and c) of Directive 2013/32/EU when a country which is not a Member State is considered as a first country of asylum or as a safe third country for the applicant; and

(b) examine the application in accelerated procedure pursuant to Article 31(8) of Directive 2013/32/EU when the following grounds apply:

(i) the applicant has the nationality of a third country, or he or she is a stateless person and was formerly habitually resident in that country, designated as a safe country of origin in the EU common list of safe countries of origin established under Regulation [Proposal COM (2015) 452 of 9 September 2015]; or

(ii) the applicant may, for serious reasons, be considered a danger to the national security or public order of the Member State, or the applicant has been forcibly expelled for serious reasons of public security or public order under national law.

Amendment 13

Proposal for a regulation

Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) that the right to apply for international protection does not encompass any choice of the applicant which Member State shall be responsible for examining the application for international protection;

Amendment

(a) that the right to apply for international protection does not encompass any choice of the applicant which Member State shall be responsible for examining the application for international protection, *except when he or she is eligible for family reunification;*

Amendment 14

Proposal for a regulation

Article 6 – paragraph 2 – subparagraph 2

Regulation (EU) 604/2013

Article 6 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Where necessary for the proper understanding of the applicant, the information shall also be supplied orally, for example in connection with the personal interview as referred to in Article 7.

Amendment

Where necessary for the proper understanding of the applicant, the information shall also be supplied orally, for example in connection with the personal interview as referred to in Article 7. ***Whenever the applicant is a minor, he or she shall be informed in a child-friendly manner.***

Justification

This amendment aims at addressing the specific situation of minors by reinforcing their rights. It is related to the amendments on Articles 7, 8 and 10.

Amendment 15

Proposal for a regulation

Article 7 – paragraph 3

Regulation (EU) 604/2013

Article 7 – paragraph 3

Text proposed by the Commission

3. The personal interview shall be conducted in a language that the applicant understands or is reasonably supposed to understand and in which he or she is able to communicate. Where necessary, Member States shall have recourse to an interpreter who is able to ensure appropriate communication between the applicant and the person conducting the personal interview.

Amendment

3. The personal interview shall be conducted in a language that the applicant understands or is reasonably supposed to understand and in which he or she is able to communicate, ***and, when necessary, in a child-friendly manner.*** Where necessary, Member States shall have recourse to an interpreter who is able to ensure appropriate communication between the applicant and the person conducting the personal interview.

Justification

This amendment aims at addressing the specific situation of minors by reinforcing their

rights. It is related to the amendments on Articles 6, 8 and 10.

Amendment 16

Proposal for a regulation

Article 8 – paragraph 1

Regulation (EU) 604/2013

Article 8 – paragraph 1

Text proposed by the Commission

1. The best interests of the child shall be *a* primary consideration for Member States with respect to all procedures provided for in this Regulation.

Amendment

1. The best interests of the child shall be ***assessed on a systematic basis and shall be the*** primary consideration for Member States with respect to all procedures provided for in this Regulation.

Justification

This amendment aims at strengthening the rights of minors and at reinforcing the obligations of the Member States towards them. It is related to the other amendments on Article 8.

Amendment 17

Proposal for a regulation

Article 8 – paragraph 2

Regulation (EU) 604/2013

Article 8 – paragraph 2

Text proposed by the Commission

Each Member State where an unaccompanied minor is ***obliged to be*** present shall ensure that a representative represents and/or assists the unaccompanied minor with respect to the relevant procedures provided for in this Regulation. The representative shall have the qualifications and expertise to ensure that the best interests of the minor are taken into consideration during the procedures carried out under this Regulation. Such representative shall have access to the content of the relevant documents in the applicant's file including the specific leaflet for unaccompanied minors.

Amendment

Each Member State where an unaccompanied minor is present shall ensure that a ***well-trained*** representative ***be appointed immediately upon arrival and*** represents and/or assists the unaccompanied minor with respect to the relevant procedures provided for in this Regulation. The representative shall have the qualifications and expertise to ensure that the best interests of the minor are taken into consideration during the procedures carried out under this Regulation. Such representative shall have access to the content of the relevant documents in the applicant's file including the specific leaflet for unaccompanied

This paragraph shall be without prejudice to the relevant provisions in Article 25 of Directive 2013/32/EU.

minors.

This paragraph shall be without prejudice to the relevant provisions in Article 25 of Directive 2013/32/EU.

Due to their vulnerability, unaccompanied minors should only be transferred to another Member State where such a transfer is in the best interests of the child.

Justification

The amendment aims to reinforce the rights of unaccompanied minors and to underline that the State holds responsibility for them.

Amendment 18

Proposal for a regulation

Article 8 – paragraph 3 – point a

Regulation (EU) 604/2013

Article 8 – paragraph 3 – point a

Text proposed by the Commission

(a) family reunification possibilities;

Amendment

(a) ***the preservation of family life, including*** family reunification possibilities;

Justification

This amendment aims at strengthening the guarantees for minors by broadening the obligations of the Member States towards them. It is related to the other amendments on Article 8.

Amendment 19

Proposal for a regulation

Article 8 – paragraph 5 – subparagraph 3

Regulation (EU) 604/2013

Article 8 – paragraph 5 – subparagraph 3

Text proposed by the Commission

The staff of the competent authorities referred to in Article 47 who deal with requests concerning unaccompanied minors shall have received, and shall

Amendment

The staff of the competent authorities referred to in Article 47 who deal with requests concerning unaccompanied minors shall have received, and shall

continue to receive, appropriate training concerning the specific needs of minors.

continue to receive, appropriate training concerning the specific needs of minors. ***Such training shall include modules on risk assessment to target care and protection depending on the individual needs of the child, with a specific focus on early identification of victims of trafficking and abuse, as well as training on good practices to prevent disappearance.***

Justification

This amendment aims at addressing the specific situation of minors by strengthening the guarantees that they will receive appropriate treatment care from Member States competent authorities. It is related to the amendments on Articles 7, 8 and 10.

Amendment 20

Proposal for a regulation

Article 10 – paragraph 5

Regulation (EU) 604/2013

Article 10 – paragraph 5

Text proposed by the Commission

In the absence of a family member or a relative as referred to in paragraphs 2 and 3, the Member State responsible shall be that where the unaccompanied minor ***first*** has lodged ***his or her*** application ***for international protection, unless it is demonstrated*** that this is ***not*** in the best interests of the minor.

Amendment

In the absence of a family member or a relative as referred to in paragraphs 2 and 3, the Member State responsible shall be that where the unaccompanied minor ***is present or*** has lodged ***an asylum*** application, ***provided*** that this is in the best interests of the minor.

Justification

This amendment is related to the previous one tabled on Article 8. The State holds responsibility for any unaccompanied minor present on its territory.

Amendment 21

Proposal for a regulation

Article 19 – paragraph 2 – subparagraph 1

Regulation (EU) 604/2013

Article 19 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The Member State in which an application for international protection is made and which is carrying out the process of determining the Member State responsible may, at any time before a Member State responsible has been determined, request another Member State to take charge of an applicant in order to bring together any family relations, even where that other Member State is not responsible under the criteria laid down in Articles 10 to 13 and 18. The persons concerned must express their consent in writing.

Amendment

The Member State in which an application for international protection is made and which is carrying out the process of determining the Member State responsible may, at any time before a Member State responsible has been determined, request another Member State to take charge of an applicant in order to bring together any family relations ***or on the basis of family, cultural or social ties or language skills which would facilitate his or her integration into that other Member State***, even where that other Member State is not responsible under the criteria laid down in Articles 10 to 13 and 18. The persons concerned must express their consent in writing.

Amendment 22

Proposal for a regulation

Article 29 – paragraph 1

Regulation (EU) 604/2013

Article 29 – paragraph 1

Text proposed by the Commission

Member States shall not hold a person in detention for the sole reason that he or she is subject to the procedure established by this Regulation.

Amendment

Member States shall not hold a person in detention for the sole reason that he or she is subject to the procedure established by this Regulation. ***Detention shall always remain a measure of last resort and alternatives to detention shall always be a priority. Children shall not to be detained as detention can never be in the child's best interests. Minors and families with minor children shall be accommodated together in non-custodial, community-based placements.***

Justification

The amendment aims at ensuring that appropriate measures are taken for children according to their best interests.

Amendment 23

Proposal for a regulation Article 49 – paragraph 1

Text proposed by the Commission

The European Union Agency for Asylum shall set up and facilitate the activities of a network of the competent authorities referred to in Article 47 (1), with a view to enhancing practical cooperation and information sharing on all matters related to the application of this Regulation, including the development of practical tools and guidance.

Amendment

The European Union Agency for Asylum shall set up and facilitate the activities of a network of the competent authorities referred to in Article 47(1), with a view to enhancing practical cooperation and information sharing on all matters related to the application of this Regulation, including the development of practical tools and guidance. ***The competent authorities of candidate and potential candidate countries and of European Neighbourhood countries may be invited to cooperate with that network.***

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)
References	COM(2016)0270 – C8-0173/2016 – 2016/0133(COD)
Committee responsible Date announced in plenary	LIBE 12.9.2016
Opinion by Date announced in plenary	AFET 12.9.2016
Rapporteur Date appointed	Ramona Nicole Mănescu 12.7.2016
Date adopted	11.4.2017
Result of final vote	+ : 47 - : 9 0 : 4
Members present for the final vote	Lars Adaktusson, Francisco Assis, Amjad Bashir, Bas Belder, Mario Borghezio, Elmar Brok, Fabio Massimo Castaldo, Lorenzo Cesa, Javier Couso Permuy, Andi Cristea, Arnaud Danjean, Georgios Epitideios, Knut Fleckenstein, Eugen Freund, Michael Gahler, Sandra Kalniete, Karol Karski, Tunne Kelam, Janusz Korwin-Mikke, Eduard Kukan, Arne Lietz, Barbara Lochbihler, Sabine Lösing, Ulrike Lunacek, Andrejs Mamikins, Ramona Nicole Mănescu, Alex Mayer, David McAllister, Francisco José Millán Mon, Javier Nart, Pier Antonio Panzeri, Demetris Papadakis, Ioan Mircea Pașcu, Alojz Peterle, Tonino Picula, Kati Piri, Julia Pitera, Cristian Dan Preda, Jozo Radoš, Jordi Solé, Jaromír Štětina, Dubravka Šuica, Charles Tannock, László Tőkés, Ivo Vajgl, Elena Valenciano, Geoffrey Van Orden, Anders Primdahl Vistisen, Boris Zala
Substitutes present for the final vote	María Teresa Giménez Barbat, Andrzej Grzyb, Antonio López-Istúriz White, Norica Nicolai, Urmas Paet, José Ignacio Salafranca Sánchez-Neyra, Marietje Schaake, Helmut Scholz, Igor Šoltes, Marie-Christine Vergiat
Substitutes under Rule 200(2) present for the final vote	Josef Weidenholzer

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

47	+
ALDE	María Teresa Giménez Barbat, Javier Nart, Norica Nicolai, Urmas Paet, Jozo Radoš, Marietje Schaake, Ivo Vajgl
EFDD	Fabio Massimo Castaldo
PPE	Lars Adaktusson, Elmar Brok, Lorenzo Cesa, Arnaud Danjean, Michael Gahler, Andrzej Grzyb, Sandra Kalniete, Tunne Kelam, Eduard Kukan, Antonio López-Istúriz White, Ramona Nicole Mănescu, David McAllister, Francisco José Millán Mon, Alojz Peterle, Julia Pitera, Cristian Dan Preda, José Ignacio Salafranca Sánchez-Neyra, László Tőkés, Jaromír Štětina, Dubravka Šuica
S&D	Francisco Assis, Andi Cristea, Knut Fleckenstein, Eugen Freund, Arne Lietz, Andrejs Mamikins, Alex Mayer, Pier Antonio Panzeri, Demetris Papadakis, Ioan Mircea Pașcu, Tonino Picula, Kati Piri, Elena Valenciano, Josef Weidenholzer, Boris Zala
VERTS/ALE	Barbara Lochbihler, Ulrike Lunacek, Jordi Solé, Igor Šoltes

9	-
ECR	Amjad Bashir, Bas Belder, Karol Karski, Charles Tannock, Geoffrey Van Orden, Anders Primdahl Vistisen
ENF	Mario Borghezio
NI	Georgios Epitideios, Janusz Korwin-Mikke

4	0
GUE/NGL	Javier Couso Permuy, Sabine Lösing, Helmut Scholz, Marie-Christine Vergiat

Key to symbols:

+ : in favour

- : against

0 : abstention

17.5.2017

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)
(COM(2016)0270 – C8-0173/2016 – 2016/0133(COD))

Rapporteur: Gérard Deprez

SHORT JUSTIFICATION

The rapporteur welcomes the Commission proposal aimed at recasting and replacing Regulation (EU) No 604/2013 of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person. In view of the migration and refugee crisis, it has become necessary to reform the Dublin system, both to simplify it and enhance its effectiveness in practice, and to reflect the fact that some Member States have faced disproportionate pressures in terms of applications.

Corrective mechanism

The appropriations needed to implement this proposal amount to EUR 1,828 billion over the period 2017-2020. This should cover the transfer costs once the ‘fairness mechanism’ has been triggered for a Member State, and the establishment and operation of the IT system for the registration and automatic allocation of asylum seekers, as well as the cost of creating additional reception capacity and providing food and basic services to the transferred asylum seekers.

The rapporteur takes note of the Commission’s position, which sets a threshold number of asylum applications above which the corrective allocation mechanism is automatically activated. He considers it necessary to establish such a threshold in order to avoid Member States having to face disproportionate pressures in terms of asylum applications and to dissuade them from requesting the use of this mechanism when they have only taken in a small number of asylum seekers based on the distribution key.

The rapporteur considers, however, that by setting the triggering threshold at 150% of

Member States' reference allocations, the Commission is placing far too heavy a burden on some Member States as it leaves them to bear the sole responsibility for half as many applications again as their capacities allow, before the solidarity mechanism is activated. He also considers that too low a threshold, with no additional conditions attached, could lead to Member States losing sight of their responsibilities as regards border control and management. He therefore proposes that this threshold be set at 100% of the Member State's reference allocation, but that potentially lax border policies be prevented by adding a mutual solidarity clause under which the corrective mechanism can be suspended when the Member State fails to properly fulfil its obligations in terms of managing its external borders in accordance with the Regulation on the European Border and Coast Guard. Lastly, he proposes that the corrective mechanism should cease to apply only when the number of asylum applications to the beneficiary Member State has fallen to 90% of the reference allocation, thus avoiding repeated entries and re-entries into the system.

Transfer costs

Of the EUR 1,828 billion available, EUR 375 million are earmarked for covering the cost of transfers between Member States, for a total of 750 000 transferred persons. Article 42 of the recast proposal establishes that the beneficiary Member State transferring an asylum seeker to a Member State of allocation should receive a lump sum of EUR 500 for each person transferred.

The rapporteur supports the proposal that the state responsible for the transfer be entitled to compensation. He considers that flat-rate compensation is justified because it avoids the huge bureaucratic burden of checking the costs actually incurred. He believes, however, that in setting this amount at EUR 500 for each person transferred, on the grounds that any additional amounts over and above the actual costs can help the most exposed Member States, the Commission has not taken into account the recently-established emergency assistance instrument¹, which is designed to supplement the actions taken by Member States affected, *inter alia*, by the sudden massive influx of third-country nationals (refugees and migrants) onto their territory.

The rapporteur therefore proposes setting this lump sum at EUR 300 for each person transferred, which is a little closer to the actual estimated costs. The total amount for transfers for the period 2017-2020 would thus be EUR 225 million, which would allow savings of EUR 150 million. Of these savings, at least EUR 110 million could be used to prime the emergency assistance reserve (EUR 30 million in 2017 and EUR 40 million each year in 2018 and 2019) before the expiry of its legal base in March 2019.

Financial solidarity and creation of a 'Dublin reserve' under the AMIF

The rapporteur considers as legitimate, necessary and proportionate the Commission's proposal to impose on Member States the obligation to contribute financially when they refuse to assume responsibility for the asylum-seekers allocated to them under the distribution mechanism. He stresses that this obligatory financial contribution is in no way punitive, but constitutes fair participation in the requisite solidarity among Member States (Article 80 TFEU). He nevertheless considers that the financial mechanism provided for by the Commission in this case is not the most appropriate, neither in terms of the amount, nor in

¹ Council Regulation (EU) 2016/369 of 15 March 2016 on the provision of emergency support within the Union.

terms of the method.

The rapporteur proposes that out of financial solidarity, a Member State which does fulfil its obligations under the corrective allocation mechanism should pay, for each applicant who would have been allocated to it, the first and second years EUR 50 000, the third and fourth years EUR 75 000, the fifth and following years EUR 100 000. These amounts would be paid in full to the AMIF fund created by Regulation (EU) No 516/2014, in order to establish a ‘Dublin reserve’. That reserve can, of course, only be established upon review of the AMIF, which under Article 60 of Regulation 514/2014 and Article 28 of Regulation (EU) No 516/2014 is to be by 30 June 2020 at the latest. If a Member State fails to pay, the Commission shall withhold these amounts from the payments due to that Member State from other Union funds.

The appropriations under this ‘Dublin reserve’ are intended to cover the granting of a lump sum per asylum seeker, distributed proportionally between Member States that participate properly in the corrective allocation mechanism. Decision (EU) 2015/1601 specifies that relocation measures shall receive funding under the AMIF. To this end, Member States of relocation shall receive a lump sum of EUR 6 000 for each applicant for international protection relocated on their territory. For resettlement, this amount is EUR 10 000 per person. The rapporteur therefore considers it appropriate to provide financial support to Member States participating in this solidarity mechanism. Under the proposed system, the per-applicant amounts of this financial support would increase in proportion to the burden some Member States have to shoulder owing to the non-participation of others.

Automated system for registration and follow-up of applications

Of the EUR 1,828 billion, EUR 3,603 million is to be allocated to the EU-LISA budget for the preparation, development and operational management of the automated IT system for the allocation of asylum seekers. Where the automated system for the registration and follow-up of applications and the allocation mechanism provided for in Article 44 has determined the Member State of allocation, this information must be automatically entered in Eurodac. It is therefore necessary to ensure the interoperability of the corrective mechanism central system and the Eurodac central system.

AMENDMENTS

The Committee on Budgets 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 regulation

Recital 30

Text proposed by the Commission

Amendment

(30) The European Agency for the

(30) The European Agency for the

operational management of large-scale IT systems in the area of freedom, security and justice established by Regulation (EU) No 1077/2011²¹ should be responsible for the preparation, development and the operational management of the central system and the communication infrastructure between the central system and the national infrastructures.

²¹ Regulation (EU) No 1077/2011 of the European Parliament and of the council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 286, 1.11.2011, p. 1).

Amendment 2

Proposal for a regulation

Recital 32

Text proposed by the Commission

(32) A key based on the size of the population and of the economy of the Member States should be applied as a point of reference in the operation of the corrective allocation mechanism in conjunction with a threshold, so as to enable the mechanism to function as a means of assisting Member States under disproportionate pressure. The application of the corrective allocation for the benefit of a Member State should be triggered automatically where the number of applications for international protection for which a Member State is responsible exceeds **150%** of the figure identified in the reference key. In order to comprehensively reflect the efforts of each Member State, the number of persons effectively resettled to that Member State should be added to the number of applications for international protection for

operational management of large-scale IT systems in the area of freedom, security and justice established by Regulation (EU) No 1077/2011²¹ should be responsible for the preparation, development and the operational management of the central system, **its interoperability with other systems** and the communication infrastructure between the central system and the national infrastructures.

²¹ Regulation (EU) No 1077/2011 of the European Parliament and of the council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 286, 1.11.2011, p. 1).

Amendment

(32) A key based on the size of the population and of the economy of the Member States should be applied as a point of reference in the operation of the corrective allocation mechanism in conjunction with a threshold, so as to enable the mechanism to function as a means of assisting Member States under disproportionate pressure. The application of the corrective allocation for the benefit of a Member State should be triggered automatically where the number of applications for international protection for which a Member State is responsible exceeds **100%** of the figure identified in the reference key. In order to comprehensively reflect the efforts of each Member State, the number of persons effectively resettled to that Member State should be added to the number of applications for international protection for

the purposes of this calculation.

the purposes of this calculation.

Justification

Considère qu'en fixant le seuil de déclenchement à 150 % de sa part de référence, la Commission laisse peser sur certains États membres une charge excessive ou ce dernier doit assumer seul un nombre de demandes qui dépasse de moitié ses capacités avant d'activer le mécanisme de solidarité. Estime également qu'un seuil trop bas sans conditions supplémentaires pourrait entraîner la non responsabilisation d'un État membre dans le contrôle et la gestion de ses frontières. Propose dès lors de fixer ce seuil à 100 % de la part de référence d'un État membre mais de prévenir une éventuelle politique de laxisme au frontière par l'ajout d'une clause de solidarité réciproque permettant la suspension du mécanisme de correction lorsqu'un État membre ne s'acquitte pas convenablement de ses obligations de gestion de sa frontière extérieure et ce conformément au règlement relatif à la création d'une agence européenne de garde-frontières et de garde-côtes (Cfr ajout d'un article 43 a)

Amendment 3

Proposal for a regulation

Recital 34

Text proposed by the Commission

(34) Under the allocation mechanism, the costs of transfer of an applicant to the Member State of allocation should be reimbursed from the EU budget.

Amendment

(34) Under the allocation mechanism, the costs of transfer of an applicant to the Member State of allocation should be reimbursed from the EU budget ***as a lump sum of EUR 300 per person transferred.***

Justification

La somme proposée de 500 EUR suit l'approche établie dans la décision (UE) 2015/1601 du Conseil, dans laquelle le remboursement des frais de transfert servait également à aider un État membre qui se trouvait dans une situation d'urgence ou confronté à un nombre disproportionné de demandes d'asile. Entre temps, un fonds d'aide d'urgence a été créé à cette fin. Votre rapporteur pour avis Budget estime dès lors qu'il convient de diminuer ce montant à 300 EUR afin qu'il corresponde un peu plus aux coûts réels de transferts. Sur le montant total prévu dans la fiche financière de la proposition 1.825 milliards sont prévus pour financer ces transferts. En diminuant la somme forfaitaire à 300 EUR, ce sont 730 millions économisés qui devraient servir à alimenter le fond d'aide urgence.

Amendment 4

Proposal for a regulation

Recital 35

(35) A Member State of allocation **may decide** not to accept the allocated applicants during a twelve month period, **in which case it** should enter this information in the automated system and notify the other Member States, the Commission and the European Union Agency for Asylum. Thereafter the applicants that would have been allocated to that Member State should be allocated to the other Member States instead. The Member State which **temporarily** does not take part in the corrective allocation **should make a solidarity contribution of EUR 250 000 per applicant not accepted to the Member State that was determined as responsible for examining those applications.** The Commission should lay down the practical modalities for the implementation of **the solidarity contribution mechanism** in an implementing act. **The** European Union Agency for Asylum will monitor and report to the Commission on a yearly basis **on the application of the financial solidarity mechanism.**

(35) A Member State of allocation **which does** not accept the allocated applicants during a twelve month period should enter this information in the automated system and notify the other Member States, the Commission and the European Union Agency for Asylum. Thereafter the applicants that would have been allocated to that Member State should be allocated to the other Member States instead. **A fund (the ‘Dublin Reserve Fund’) should be established and** the Member State which does not take part in the corrective allocation **should pay into that fund, with regard to each allocated applicant whom the Member State does not accept, annual payments of EUR 50 000 for the first and the second years, EUR 75 000 for the third and the fourth years, and EUR 100 000 for subsequent years. The funding under the Dublin Reserve Fund is intended to cover the granting of a lump sum per applicant for international protection, distributed proportionally between the Member States that participate in the corrective allocation mechanism. If a Member State fails to pay, the Commission should withhold the same amount from the payments due to that Member State from other Union funds.** The Commission should lay down the practical modalities for the implementation of **the above-specified principle** in an implementing act **and the** European Union Agency for Asylum will monitor and report to the Commission on a yearly basis.

Amendment 5

Proposal for a regulation Recital 41

Text proposed by the Commission

(41) Continuity between the system for determining the Member State responsible established by Regulation (EU) No 604/2013 and the system established by this Regulation should be ensured. Similarly, consistency should be ensured between this Regulation and Regulation [Proposal for a Regulation recasting Regulation (EU) No 603/2013 of the European Parliament and of the Council].

Amendment

(41) Continuity between the system for determining the Member State responsible established by Regulation (EU) No 604/2013 and the system established by this Regulation should be ensured. Similarly, consistency should be ensured between this Regulation and Regulation [Proposal for a Regulation recasting Regulation (EU) No 603/2013 of the European Parliament and of the Council]. ***Where the automated system for the registration and follow-up of applications, and for the allocation mechanism provided for in Article 44, has determined the Member State of allocation, this information should be automatically entered in Eurodac. It is therefore necessary to ensure the interoperability of the corrective mechanism central system and the Eurodac central system.***

Justification

This amendment makes explicit the link between the two regulations in question, with a view to ensuring coherence between the two systems on the basis of their interoperability.

Amendment 6

**Proposal for a regulation
Article 34 – paragraph 2**

Text proposed by the Commission

2. Paragraph 1 applies where the automated system referred to in Article 44(1) indicates that the number of applications for international protection for which a Member State is responsible under the criteria in Chapter III, Articles 3(2) or (3), 18 and 19, in addition to the number of persons effectively resettled, is higher than **150%** of the reference number for that Member State as determined by the key referred to in Article 35.

Amendment

2. Paragraph 1 applies where the automated system referred to in Article 44(1) indicates that the number of applications for international protection for which a Member State is responsible under the criteria in Chapter III, Articles 3(2) or (3), 18 and 19, in addition to the number of persons effectively resettled, is higher than **100%** of the reference number for that Member State as determined by the key referred to in Article 35.

Justification

Considère qu'en fixant le seuil de déclenchement à 150 % de sa part de référence, la Commission laisse peser sur certains États membres une charge excessive ou ce dernier doit assumer seul un nombre de demandes qui dépasse de moitié ses capacités avant d'activer le mécanisme de solidarité. Estime également qu'un seuil trop bas sans conditions supplémentaires pourrait entraîner la non responsabilisation d'un État membre dans le contrôle et la gestion de ses frontières. Propose dès lors de fixer ce seuil à 100 % de la part de référence d'un État membre mais de prévenir une éventuelle politique de laxisme au frontière par l'ajout d'une clause de solidarité réciproque permettant la suspension du mécanisme de correction lorsqu'un État membre ne s'acquitte pas convenablement de ses obligations de gestion de sa frontière extérieure et ce conformément au règlement relatif à la création d'une agence européenne de garde-frontières et de garde-côtes (Cfr ajout d'un article 43 a)

Amendment 7

Proposal for a regulation Article 37 – title

Text proposed by the Commission

Financial solidarity

Amendment

Financial solidarity and ***establishment of the Dublin Reserve Fund***

Amendment 8

Proposal for a regulation Article 37 – paragraph 1

Text proposed by the Commission

1. A Member State ***may***, at the end of the three-month period after the entry into force of this Regulation and at the end of each twelve-month period thereafter, enter in the automated system ***that it will temporarily not take part in the corrective allocation mechanism set out in Chapter VII of this Regulation as a Member State of allocation*** and notify this to the Member States, the Commission and the European Union Agency for Asylum.

Amendment

1. A Member State ***which fails to fulfil its obligations under the corrective allocation mechanism set out in Chapter VII, as a Member State of allocation, should***, at the end of the three-month period after the entry into force of this Regulation and at the end of each twelve-month period thereafter, enter ***that information*** in the automated system, and notify this to the Member States, the Commission and the European Union Agency for Asylum.

Amendment 9

Proposal for a regulation

Article 37 – paragraph 3

Text proposed by the Commission

3. At the end of the twelve-month period referred to in paragraph 2, the automated system shall communicate to the Member State not taking part in the corrective allocation mechanism the number of applicants for whom it would have otherwise been the Member State of allocation. That Member State shall thereafter ***make a solidarity contribution of EUR 250 000 per each applicant who would have otherwise been allocated to that Member State during the respective twelve-month period. The solidarity contribution shall be paid to the Member State determined as responsible for examining the respective applications.***

Amendment

3. At the end of the twelve-month period referred to in paragraph 2, the automated system shall communicate to the Member State not taking part in the corrective allocation mechanism the number of applicants for whom it would have otherwise been the Member State of allocation. ***A fund (the ‘Dublin Reserve Fund’) shall be established and the Member State not taking part in the corrective allocation mechanism shall pay into that fund, with regard to each allocated applicant whom the Member State does not accept, annual payments of EUR 50 000 for the first and second years, EUR 75 000 for the third and the fourth years,, and EUR 100 000 for subsequent years. The funding under the Dublin Reserve Fund shall cover the granting of a lump sum per applicant for international protection, distributed proportionally between the Member States that participate in the corrective allocation mechanism. If a Member State fails to pay, the Commission shall withhold the same amount from the payments due to that Member State from other Union funds.***

Amendment 10

Proposal for a regulation

Article 42 – paragraph 1

Text proposed by the Commission

For the costs to transfer an applicant to the Member State of allocation, the benefitting Member State shall be refunded by a lump

Amendment

For the costs to transfer an applicant to the Member State of allocation, the benefitting Member State shall be refunded by a lump

sum of EUR **500** for each person transferred pursuant to Article 38(c). This financial support shall be implemented by applying the procedures laid down in Article 18 of Regulation (EU) No 516/2014.

sum of EUR **300** for each person transferred pursuant to Article 38(c). This financial support shall be implemented by applying the procedures laid down in Article 18 of Regulation (EU) No 516/2014.

Justification

La somme proposée de 500 EUR suit l'approche établie dans la décision (UE) 2015/1601 du Conseil, dans laquelle le remboursement des frais de transfert servait également à aider un État membre qui se trouvait dans une situation d'urgence ou confronté à un nombre disproportionné de demandes d'asile. Entre temps, un fonds d'aide d'urgence a été créé à cette fin. Votre rapporteur pour avis Budget estime dès lors qu'il convient de diminuer ce montant à 300 EUR afin qu'il corresponde un peu plus aux coûts réels de transferts. Sur le montant total prévu dans la fiche financière de la proposition 1.825 milliards sont prévus pour financer ces transferts. En diminuant la somme forfaitaire à 300 EUR, ce sont 730 millions économisés qui devraient servir à alimenter le fond d'aide urgence.

Amendment 11

Proposal for a regulation Article 43 – paragraph 1

Text proposed by the Commission

The automated system shall notify the Member States and the Commission as soon as the number of applications in the benefitting Member State for which it is the Member State responsible under this Regulation is below **150%** of its share pursuant to Article 35(1).

Amendment

The automated system shall notify the Member States and the Commission as soon as the number of applications in the benefitting Member State for which it is the Member State responsible under this Regulation is below **90 %** of its share pursuant to Article 35(1).

Amendment 12

Proposal for a regulation Article 43 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Should a Member State fail to properly fulfil its obligations in terms of managing its external borders in accordance with Regulation (EU) 2016/1624 of the European Parliament and of Council^{1a}, the Council, acting by qualified majority,

may decide to suspend the corrective allocation mechanism. The decision to suspend that mechanism shall be valid for no longer than a fixed period of one year.

^{1a} Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).

Amendment 13

Proposal for a regulation

Article 44 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. *The interoperability of the computerised system and Eurodac shall be ensured by means of a direct communication channel between the central systems, so as to enable the automatic transmission of information on the determination, through the corrective mechanism, of the Member State of allocation.*

Amendment 14

Proposal for a regulation

Article 44 – paragraph 3

Text proposed by the Commission

Amendment

3. The European agency for the operational management of large scale IT systems in the area of freedom, security and justice established by Regulation (EU) No 1077/2011 shall be responsible for the

3. The European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice established by Regulation (EU) No 1077/2011²¹ should be responsible for

preparation, development and the operational management of the central system and the communication infrastructure between the central system and the national infrastructures.

the preparation, development and the operational management of the central system, *its interoperability with other systems* and the communication infrastructure between the central system and the national infrastructures.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)
References	COM(2016)0270 – C8-0173/2016 – 2016/0133(COD)
Committee responsible Date announced in plenary	LIBE 12.9.2016
Opinion by Date announced in plenary	BUDG 12.9.2016
Rapporteur Date appointed	Gérard Deprez 15.6.2016
Discussed in committee	9.2.2017
Date adopted	11.5.2017
Result of final vote	+: 24 –: 5 0: 4
Members present for the final vote	Jean Arthuis, Lefteris Christoforou, Gérard Deprez, Manuel dos Santos, José Manuel Fernandes, Eider Gardiazabal Rubial, Monika Hohlmeier, Bernd Kölmel, Zbigniew Kuźmiuk, Vladimír Maňka, Clare Moody, Younous Omarjee, Pina Picierno, Paul Rübig, Petri Sarvamaa, Jordi Solé, Patricija Šulin, Eleftherios Synadinos, Indrek Tarand, Isabelle Thomas, Inese Vaidere, Monika Vana, Daniele Viotti, Marco Zanni
Substitutes present for the final vote	Anneli Jäätteenmäki, Louis Michel, Stanisław Ożóg, Tomáš Zdechovský
Substitutes under Rule 200(2) present for the final vote	Georges Bach, Gabriele Preuß, Claudia Schmidt, Axel Voss, Rainer Wieland

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

24	+
ALDE	Jean Arthuis, Gérard Deprez, Anneli Jäätteenmäki, Louis Michel
PPE	Georges Bach, Lefteris Christoforou, José Manuel Fernandes, Monika Hohlmeier, Paul Rübig, Petri Sarvamaa, Claudia Schmidt, Patricija Šulin, Inese Vaidere, Axel Voss, Rainer Wieland
S&D	Eider Gardiazabal Rubial, Vladimír Maňka, Clare Moody, Pina Picierno, Gabriele Preuß, Isabelle Thomas, Daniele Viotti, Manuel dos Santos
Verts/ALE	Indrek Tarand

5	-
ENF	Marco Zanni
NI	Eleftherios Synadinos
PPE	Tomáš Zdechovský
Verts/ALE	Jordi Solé, Monika Vana

4	0
ECR	Zbigniew Kuźmiuk, Bernd Kölmel, Stanisław Ożóg
GUE/NGL	Younous Omarjee

Key to symbols:

+ : in favour

- : against

0 : abstention

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)			
References	COM(2016)0270 – C8-0173/2016 – 2016/0133(COD)			
Date submitted to Parliament	4.5.2016			
Committee responsible Date announced in plenary	LIBE 12.9.2016			
Committees asked for opinions Date announced in plenary	AFET 12.9.2016	BUDG 12.9.2016		
Rapporteurs Date appointed	Cecilia Wikström 26.5.2016			
Discussed in committee	16.6.2016	9.3.2017	12.4.2017	19.10.2017
Date adopted	19.10.2017			
Result of final vote	+	43		
	-	16		
	0	0		
Members present for the final vote	Asim Ahmedov Ademov, Jan Philipp Albrecht, Gerard Batten, Heinz K. Becker, Malin Björk, Michał Boni, Caterina Chinnici, Daniel Dalton, Rachida Dati, Agustín Díaz de Mera García Consuegra, Frank Engel, Cornelia Ernst, Tanja Fajon, Laura Ferrara, Raymond Finch, Lorenzo Fontana, Kinga Gál, Ana Gomes, Nathalie Griesbeck, Sylvie Guillaume, Jussi Halla-aho, Monika Hohlmeier, Brice Hortefeux, Sophia in 't Veld, Eva Joly, Dietmar Köster, Barbara Kudrycka, Marju Lauristin, Monica Macovei, Roberta Metsola, Louis Michel, Claude Moraes, Alessandra Mussolini, Péter Niedermüller, Soraya Post, Judith Sargentini, Birgit Sippel, Helga Stevens, Bodil Valero, Marie-Christine Vergiat, Harald Vilimsky, Josef Weidenholzer, Cecilia Wikström, Kristina Winberg, Tomáš Zdechovský, Auke Zijlstra			
Substitutes present for the final vote	Ignazio Corrao, Gérard Deprez, Teresa Jiménez-Becerril Barrio, Jeroen Lenaers, Andrejs Mamikins, John Procter, Christine Revault d'Allonnes Bonnefoy, Elly Schlein, Barbara Spinelli			
Substitutes under Rule 200(2) present for the final vote	Lara Comi, Elisabetta Gardini, Czesław Hoc, Patrizia Toia			
Date tabled	6.11.2017			

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

43	+
ALDE	Gérard Deprez, Nathalie Griesbeck, Louis Michel, Cecilia Wikström, Sophia in 't Veld
GUE/NGL	Malin Björk, Cornelia Ernst, Barbara Spinelli, Marie-Christine Vergiat
PPE	Asim Ahmedov Ademov, Heinz K. Becker, Michał Boni, Lara Comi, Rachida Dati, Agustín Díaz de Mera García Consuegra, Frank Engel, Elisabetta Gardini, Monika Hohlmeier, Brice Hortefeux, Teresa Jiménez-Becerril Barrio, Barbara Kudrycka, Jeroen Lenaers, Roberta Metsola, Alessandra Mussolini
S&D	Caterina Chinnici, Tanja Fajon, Ana Gomes, Sylvie Guillaume, Dietmar Köster, Marju Lauristin, Andrejs Mamikins, Claude Moraes, Péter Niedermüller, Soraya Post, Christine Revault d'Allonnes Bonnefoy, Elly Schlein, Birgit Sippel, Patrizia Toia, Josef Weidenholzer
Verts/ALE	Jan Philipp Albrecht, Eva Joly, Judith Sargentini, Bodil Valero

16	-
ECR	Daniel Dalton, Jussi Halla-aho, Czesław Hoc, Monica Macovei, John Procter, Helga Stevens
EFDD	Gerard Batten, Ignazio Corrao, Laura Ferrara, Raymond Finch, Kristina Winberg
ENF	Lorenzo Fontana, Harald Vilimsky, Auke Zijlstra
PPE	Kinga Gál, Tomáš Zdechovský

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention