Council of the European Union

Brussels, 19 February 2018
(OR. en)

6238/18

Interinstitutional File: 2016/0224 (COD)

LIMITE

ASILE 8
CODEC 210

NOTE

From:	Presidency
To:	Delegations
No. Cion doc.:	11317/16
Subject:	Proposal for a Regulation of the European Parliament and of the Council stablishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (First reading)

Presidency compromise proposals were discussed in relations to all articles and the second examination of the proposal was finalised during five meetings (26-27 September, 5-6 October, 24-25 October, 21-22 November and 4-5 December 2017).

Presidency compromise proposals in relation to Articles 1-43 (third examination) were discussed during two meetings (29-30 January and 13-14 February 2018). This document contains Presidency compromise porposals suggested by the Presidency in relation Articles 44-62.

Suggested modifications are indicated as follows:

- new text compare to the Commission proposal is in **bold**;

- new text compared to the previous version is in **bold underline**;

- deleted text is in ~~strikethrough~~.

Comments made by delegations orally and in writing, as well as explanations given by the Commission and the Presidency appear in the footnotes of the Annex.

ANNEX

2016/0224 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU[1]

[…]

SECTION V

SAFE COUNTRY CONCEPTS[2]

Article 44

The concept of first country of asylum[3]

---

1 **HU, IT, NL, PL, SI:** parliamentary reservation. **AT, BE, CZ, EL, ES, FI, FR, HU, IE, IT, LT, NL, PL, PT, SE, SI:** scrutiny reservation. **FR, PL, SK:** Directive instead of a Regulation.

2 **DE, SK:** scrutiny reservation. **EL, IE:** fully functioning readmission agreements at Union level with key third countries will be essential to the success of the safe country concepts.

3 **BE, SE:** scrutiny reservation. **EL:** reservation linked to Dublin. **IT:** scrutiny reservation linked to the position of this delegation in relation to the admissibility procedure (Art. 36) and to the Dublin Regulation; several aspects need to be clarified in order for this concept to be applied in practice, namely the determination of the country which has been the first to grant protection, the existence of other instruments than the Geneva Convention and the fact that the interpretation of the notion of "*sufficient protection*" by each MS might lead to divergent applications in practice and in the end favour secondary movements. **MT:** concerns in relation to this Article when applied in conjunction with Article 34 due to the proposed time limits, and the current wording in Section II of Chapter II which seems to suggest that an admissibility interview needs to be done for each and every application, and not only in those cases where the Determining Authority is going to apply Article 36(1). The increased workload combined with the shorter time frames will make these provisions difficult to implement.

1. A third country **is to** ~~shall~~ be considered to be a first country of asylum for a**n** ~~particular~~ applicant **where in that country** ~~provided that~~:

(a) ~~the applicant enjoyed protection Geneva Convention in that country before travelling to the Union and he or she can still avail himself or herself of that protection; or~~ **the applicant´s life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion;**

(b) ~~the applicant otherwise has enjoyed sufficient protectionin that country before travelling to the Union and he or she can still avail himself or herself of that protection.~~**the applicant faces no real risk of serious harm as defined in Regulation (EU) No XXX/XXX (Qualification Regulation);**

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

(bb) the applicant enjoyed sufficient protection as referred to in paragraph 1a before travelling to the Union and he or she can still avail himself or herself of that protection.[4]

[Proposal for a recital to accompany this provision:

"In the context of the application of the concepts of first country of asylum and safe third country, protection in accordance with the Geneva Convention should be interpreted as meaning that the third country in question has ratified and respects the Geneva Convention within the limits of the derogations or limitations made by that third country, as permitted under the Convention. In case of geographical limitations made by the third country, protection in accordance with the Geneva Convention cannot be considered to be ensured for persons who fall outside of the scope of application of the Convention".]

[4] **SE:** move this in the chapeau of para (1).

1a. Sufficient protection means:[5]

(a) protection in accordance with the Geneva Convention; or

(b) protection <u>that meets</u> the following criteria:[6]

(i) a right <u>to lawfully</u> stay <u>in the territory of the third country;</u>

(ii) access to means of subsistence <u>sufficient</u> to maintain <u>an adequate</u> standard of living;

(iii) access to emergency healthcare and essential treatment of illnesses; and

(iv) access to elementary education under the same conditions as for the nationals of the third country.[7]

<u>[Proposal for a recital to accompany paragraph 1a(b)(ii):</u>

<u>When assessing whether the criteria for sufficient protection as set out in this Regulation are met by a third country which does not offer protection in accordance with the Geneva Convention, access to the means of subsistence sufficient to maintain an adequate standard of living should be understood as including the right to engage in gainful employment under conditions not less favourable than those for non-nationals of the third country generally in the same circumstances.</u><u>**]**</u>

1b. The concept of first country of asylum may be applied where the conditions set out in paragraph 1 are met only in part of the territory of the third country provided that the applicant can safely and legally travel to that part of the third country.[8]

---

5 **SE:** scrutiny reservation.

6 **SK:** scrutiny reservation.

7 **EL:** why is access to education restricted only to elementary? Is this compatible with the Convention on the Rights of the Child?

8 **SE:** scrutiny reservation. **EL:** unclear how it will be feasible, given the extremely tight deadlines in border procedure, for the determining authority to assess that the conditions of first country of asylum are met in that part of the country. **IT:** delete this para. **RO:** this would imply the fulfillment of requirements similar to those provided by Art. 8 (1) QR: "*(...) he or she may safely and legally travel to and gain admittance to a part of the country of origin and can reasonably be expected to settle there ...*". Hence redraft as follows: "*the applicant can safely and legally travel to and gain admittance to that part of the third country*".

2. ~~The determining authority shall consider that an applicant enjoys sufficient protection within the meaning of paragraph 1(b) provided that it is satisfied that:~~

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

~~(b) there is no risk of serious harm as defined in Regulation (EU) No XXX/XXX (Qualification Regulation);~~

~~(c) the principle of *non-refoulement* in accordance with the Geneva Convention is respected;~~

~~(d) the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law is respected;~~

~~(e) there is a right of legal residence;~~

~~(f) there is appropriate access to the labour market, reception facilities, healthcare and education; and~~

~~(g) there is a right to family reunification in accordance with international human rights standards.~~

2a. The concept of first country of asylum <u>may</u> be applied only following an individual assessment of the particular circumstances of the applicant taking into account elements submitted by the applicant explaining why the concept of first country of asylum would not be applicable to him or her, <u>including as regards the respect of his or her right to family life.</u>[9]

[9] **SK:** scrutiny reservation.

[Proposal for a recital to accompany paragraph 2a:

"***In order to ensure the respect of the right to family life as enshrined in the Charter of fundamental rights, the concepts of first country of asylum and safe third country should not be applied in respect of an applicant who applies and is entitled to benefit, in the Member State that examined the application, from the rights set out in Directive 2003/86/EC or Directive 2004/38/EC as family member of a third country national or of a Union citizen. Moreover, these concepts should not be applied in respect of an applicant who has indicated his or her wish to benefit and is entitled to benefit from Article 25 of Regulation No XXX/XXX [Qualification Regulation], in the Member State that examines the application, as family member of a beneficiary of international protection. In addition, a Member State should be able to decide whether to apply the concepts of first country of asylum and safe third country in respect of an applicant who has indicated his or her wish to benefit, in that Member State, from a right to family reunification pursuant to the national law of that Member State."***]**

3. ~~Before his or her application can be rejected as inadmissible pursuant to Article 36(1)(a), the applicant shall be allowed to challenge the application of the first country of asylum concept in light of his or her particular circumstances when lodging the application and during the admissibility interview.~~

4. As regards unaccompanied minors, the concept of first country of asylum may only be applied where the authorities of Member States have ~~first received from~~ **been informed by** the authorities of the third country in question ~~the assurance~~ that the unaccompanied minor will be taken in charge by ~~those~~ **the relevant** authorities **in a manner adapted to his or her specific procedural** and ~~that he or she shall immediately benefit from one of the forms of protection referred to in paragraph~~ **reception needs**.[10]

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

~~(a) inform the applicant accordingly;~~

[10] **DE:** scrutiny reservation; unclear what "*first*" means; what are the reasons for not allowing a legal guardian to take the unaccompanied minor in charge if assurance of the authorities is given that the UAM will immediately benefit from one of the forms of protection referred to in para (1)? **PRES:** the text tries to clarify the fact that the authorities that would give the assurance are not necessarily the ones that would take the UAM in charge. **IE:** a reference to the best interest of the child should be included; redraft as follows: "*As regards unaccompanied minors, the concept of first country of asylum may only be applied, provided that it is in the best interests of the child, and where the authorities of the Member State have first received from the authorities of the third country in question the assurance that the unaccompanied minor will be taken in charge by those authorities and that he or she shall immediately benefit from one of the forms of protection referred to in paragraph 1.*" Alternatively, a reference to Aticle 21 (1) could be included. **EL, ES:** based on the child's best interests and the obligation to trace family members of the unaccompanied (obligation imposed by the RCD), Dublin criteria on family reunification should take precedence over the application of the first country of asylum concept; add after "*as regards unaccompanied minors*" the sentence "*and without prejudice to the application of the Dublin criteria*". **IT:** reservation, delete it; the confirmation (or assurance) provides no certainty that the best interest of the child has been assessed and applied. Moreover there is no way to check the reliability of confirmation/assurance and the respect of substantive standards and sufficient protection. From a practical point of view, the contacts with the STC concerned may take long and therefore the UAM would stay in a limbo which may cause absconding. **NL:** it should not be necessary that there is a assurance from the authorities in the third country. The focus should be on the question if there is appropriate reception for the minor, along with the other guarantees in this Article. There is also a provision for this in Article 10(2) of the Return Directive.

~~(b)~~ provide ~~him or her~~ **the applicant** with a document informing the authorities of the third country, in the language of that country, that the application has not been examined ~~in substance~~ **on the merits** ~~as a consequence of the application of the first country of asylum concept~~.[11]

6. Where the third country in question does not ~~admit or~~ readmit the applicant to its territory, the determining authority **of the Member State responsible** shall ~~revoke the decision rejecting the application as inadmissible and shall give access to the procedure in accordance with the basic principles and guarantees provided for in Chapter II and Section I of Chapter III~~ **examine the application on the merits and shall not consider it as a subsequent application**.[12]

---

[11] **ES, MT:** the provision of a document in the language of the first country of asylum is not feasible as this would lead to both administrative and financial burdens, as well as run counter to the aim of tackling these applications efficiently and transferring applicants to a first country of asylum as soon as possible; delete "*in the language of that country*". **NL:** Article 44 only applies to those who can still avail themselves of the protection of the first country of asylum. In that light, there seems to be no reason to supply the applicant with a document explaining that his application has not been examined in substance. **HU, RO:** in order to ensure an unitary practice of EU MS with respect to a particular third country considered to be the first country of asylum, it would be useful for the format of the document which will be issued to a foreign citizen or stateless person who was the subject of this type of admissibility procedure to be established by the European Commission through a mechanism similar to the one regulated in Art. 26 (2) of this proposal. **FR:** What would be the use of such a document? Why should it be up to the determining authority to establish it? **PRES:** the obligation to provide the information in the language of that country already exists in APD for STC. The purpose is to guarantee that the applicant has something that would describe his or her situation to the authorities of a FCA

[12] **BE:** reservation; in case of non-admission, the file should be managed as a subsequent application. **DE:** scrutiny reservation. **IE:** in order to clarify that para (6) is intended to cover exceptional circumstances where having previously considered that the third country would readmit the person this does not happen in the particular case concerned; therefore, include a point (c) under paragraph (1) to say that a country will considered a first country of asylum for the applicant provided that he/she will be readmitted to that country or alternatively, to include a cross-reference to Article 36(1) (a). **EL:** reservation linked to the implicit reference to Dublin; in practice, the determining authority should know beforehand whether the applicant will be admitted or readmitted to the third country, so as to avoid superfluous workload. Para (6) should take place exceptionally when, despite the initial acceptance, the applicant is not finally admitted. **AT:** delete (5) and (6).

In such case and where Article 3(3a) of Regulation (EU) No XXX/XXX (Dublin Regulation) is applied, the time-limits for determining the Member State responsible and the time-limits set out in Article 34(1a) and (2) shall start to run from when the authorities of the Member State that applied the first country of asylum concept receives confirmation that the applicant will not be readmitted by the third country.

7. ~~Member States shall inform the Commission and the European Union Agency for Asylum every year of the countries to which the concept of the first country of asylum is applied.~~

Article 45

The concept of safe third country[13]

1. A third country ~~shall~~ **may only** be designated as a safe third country ~~provided that~~ **where in that country**:[14]

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

   (b) **non-nationals face** ~~there is~~ no risk of serious harm as defined in Regulation (EU) No XXX/XXX;

   (c) **non-nationals are protected against** ~~the principle of non-~~refoulement ~~in accordance with the Geneva Convention is respected~~ **and against** ~~(d) the prohibition of~~ removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law ~~is respected~~;[15]

---

13 **BE, DE, FR, IT, SE:** scrutiny reservation. **IT:** delete reference to the admissibility criteria. **MT:** concerns in relation to this Article due to the proposed time limits in Article 34 and the current wording in Section II of Chapter II which seems to suggest that an admissibility interview needs to be done for each and every application and not only in those cases where the Determining Authority is going to apply Article 36(1). The increased workload combined with the shorter time frames will make these provisions difficult to implement.

14 **HU:** no support for modifications in para (1).

15 **DE, ES:** add "*and*" at the end of this point. **RO:** indicate which articles of the GC are envisaged. **SK:** scrutiny reservation on the use of the term "*non-nationals*" in points (a), (b) and (c).

(e) the possibility exists **to request and receive sufficient protection as defined in Article 44(1a)** ~~protection in accordance with the substantive standards of the Geneva Convention or sufficient protection as referred to in Article 44(2), as appropriate~~.

1a. The designation of a third country as a safe third country may be made with exceptions for specific parts of its territory or with exceptions for clearly identifiable categories of persons.[16]

1b. ~~The assessment of~~ **When assessing** whether a third country may be designated as a safe third country in accordance with this Regulation **account shall be taken of** ~~shall be based on~~ a range of **relevant and available** sources of information, including ~~in particular information~~ from Member States, the European Union Agency for Asylum, the European External Action Service, the United Nations High Commissioner for Refugees~~, the Council of Europe~~ and other relevant **intergovernmental or international** organisations.[17]

2. The concept of safe third country shall be applied ~~:~~

~~(a)~~ where a third country has been designated as safe third country **at Union or national level** in accordance with Article**s 46 or** 50~~;~~**.**

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

~~(b) where a third country is designated as a safe third country at Union level; or~~

---

[16] **SE:** scrutiny reservation. **EL:** unclear how it will be feasible, given the extremely tight deadlines in border procedure, for the determining authority to assess the safety of parts of a country and equally for the applicant to be able to rebut the presumption of the safety for parts of the country. **IT:** delete this para.

[17] **RO:** assess if at a minimum, the Member States, the European Union Agency for Safety and Health at Work, the European External Action Service, the United Nations High Commissioner for Refugees and the Council of Europe should be cumulatively considered as sources of information, before applying the safe third country concept in individual cases, according to Art. 45, par. 2, let. (c) of the Regulation, or, for example, the information provided by the Asylum Agency the European Union and the United Nations High Commissioner for Refugees are sufficient, if, hypothetically, the Member States, the European External Action Service and the Council of Europe do not have a formal position in this regard. **SE:** replace "*including*" with "*such as*".

~~(c) in individual cases~~ in relation to a specific applicant **where the country has not been designated as safe third country at Union or national level, provided that in all or part of the territory of that third country the conditions set out in paragraph 1 are met with regard to that applicant**.[18]

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

(a) an individual assessment of the particular circumstances of the applicant, has been carried out taking into account elements submitted by the applicant explaining why the concept of safe third country would not be applicable to him or her, including as regards the respect of his or her right to family life;

(b) there is a connection between the applicant and the third country in question on the basis of which it would be reasonable for that person to go to that country, including because the applicant has transited through that third country;[19]

(c) if the conditions set out in paragraph 1 are met only in part of the third country, the applicant can safely and legally travel to that part of the third country.[20]

3. ~~The determining authority shall consider a third country to be a safe third country for a particular applicant, after an individual examination of the application, only where it is satisfied of the safety of the third country for a particular applicant in accordance with the criteria established in paragraph 1 and it has established that:~~

---

18 **HU:** start para (2a) with the sentence „*where the country has not been designated as safe third country at Union or national level*".

19 **AT:** delete "*there is a connection between the applicant and the third country in question on the basis of which*". **SE:** delete "*including because the applicant has transited through that third country*".

20 **SE:** scrutiny reservation. **RO:** the application of the concept of "*safe third country*" only in relation to a part of the territory of the country in question would imply the fulfillment of requirements similar to those in Art. 8 (1) QR: "*(...) he or she can safely and legally travel to and gain admittance to a part of the country of origin and can reasonably be expected to settle there ...*". Hence redraft as follows: "*the applicant can safely and legally travel to and gain admittance to that part of the third country*".

~~(a) there is a connection between the applicant and the third country in question on the basis of which it would be reasonable for that person to go to that country, including because the applicant has transited through that third country which is geographically close to the country of origin of the applicant;~~

~~(b) the applicant has not submitted serious grounds for considering the country not to be a safe third country in his or her particular circumstances.~~

4. ~~Before his or her application can be rejected as inadmissible pursuant to Article 36(1)(b), an applicant shall be allowed to challenge the application of the concept of safe third country in light of his or her particular circumstances when lodging the application and during the admissibility interview.~~

5. As regards unaccompanied minors, the concept of safe third country may only be applied where the authorities of the Member States have ~~first received from~~ **been informed by** the authorities of the third country in question ~~confirmation~~ that the unaccompanied minor ~~shall~~ **will** be taken in charge by ~~those~~ **the relevant** authorities **in a manner adapted to his or her specific procedural and reception needs** ~~and that he or she shall immediately have access to one of the forms of protection referred to in paragraph 1(e)~~.[21]

[21] **AT:** delete (5). **DE:** scrutiny reservation; unclear why the best interest of the child is not mentioned here. **EL, ES:** based on the child's best interests and the obligation to trace family members of the unaccompanied (obligation imposed by the Reception Conditions Directive), Dublin criteria on family reunification should take precedence over the application of the safe third country concept; add after "*as regards unaccompanied minors*" the sentence "*and without prejudice to the application of the Dublin criteria*". **IT:** reservation, delete it; the confirmation (or assurance) provides no certainty that the best interest of the child has been assessed and applied. Moreover there is no way to check the reliability of confirmation/assurance and the respect of substantive standards and sufficient protection. From a practical point of view, the contacts with the STC concerned may take long and therefore the UAM would stay in a limbo which may cause absconding. **NL:** same comment as for Article 44 (4). **HU:** unclear how this serves the best interest of the child; the procedure will take a very lng time until an answer is received from the third country.

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

~~(a) inform the applicant accordingly; and~~

~~(b)~~ provide ~~him or her~~ **the applicant** with a document informing the authorities of the third country, in the language of that country, that the application has not been examined ~~in substance~~ **on the merits** ~~as a consequence of the application of the concept of the safe third country~~.[22]

7. Where the third country in question does not admit or readmit the applicant to its territory, the determining authority **of the Member State responsible** shall ~~revoke the decision rejecting the application as inadmissible and shall give access to the procedure in accordance with the basic principles and guarantees provided for in Chapter II and Section I of Chapter III~~ **examine the application on the merits and shall not consider it as a subsequent application**.[23]

---

[22] **ES, MT:** the provision of a document in the language of the third country is not feasible as this would lead to both administrative and financial burdens, as well as run counter to the aim of tackling these applications efficiently and transferring applicants to a safe third country as soon as possible; delete "*in the language of that country*". **HU, RO:** in order to ensure an unitary practice of EU MS with respect to a particular third country considered to be the first country of asylum, it would be useful for the format of the document which will be issued to a foreign citizen or stateless person who was the subject of this type of admissibility procedure to be established by the European Commission through a mechanism similar to the one regulated in Art. 26 (2) of this proposal. **AT:** delete para (6).

[23] **DE:** scrutiny reservation. **BE:** reservation, in case of non-admission, the file should be managed as a subsequent application. **AT:** delete para (7). **CZ:** this delegation does not undestand the text as allowing only official readmission procedure, the applicants may travel voluntarily having the residence permit of that state allowing entry. **PRES:** in this provision we are in the situation where the third country does not admit or readmit the person. In such cases the person could not return on his or her own. **EL:** reservation linked to the implicit reference to Dublin; in practice, the determining authority should know beforehand whether the applicant will be admitted or readmitted to the third country, so as to avoid superfluous workload. In cases when a third country does not admit or readmit the applicant, the admissibility procedure should not take place at all and the examination on the merits starts immediately.

In such case and where Article 3(3a) of Regulation (EU) No XXX/XXX (Dublin Regulation) is applied, the time-limits for determining the Member State responsible and the time-limits set out in Article 34(1a) and (2) shall start to run from when the authorities of the Member State that applied the first country of asylum concept receives confirmation that the applicant will not be admitted or readmitted by the third country.

Article 46

Designation of safe third countries at Union level[24]

1. Third countries shall**, by means of an amendment to this Regulation,** be designated as safe third countries at Union level, in accordance with the conditions laid down in Article 45(1).[25]

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

2a. The European Union Agency for Asylum shall, at the request of the Commission, provide it with information on specific third countries which could be designated as safe third countries at Union level. The Commission may take into account a request from Member States to assess whether a third country could be designated as a safe third country at Union level.

---

[24] **SE, SK:** scrutiny reservation. **SE:** an EU list is welcome in order to increase harmonisation, as long as the independence of the authorities and the courts to determine in individual cases can be fully upheld. This must be ensured throughout the proposal.

[25] **AT:** add the following: "*Member States may designate safe third countries in accordance with Art. 50 in national law.*" **DE:** scrutiny reservation; unclear if the "shall" clause means that all third countries must be examined to determine whether they must be designated safe third countries at Union level. **PRES:** the aim should be to have as comprehensive a list as possible.

3. The Commission shall be empowered to adopt delegated acts to suspend the designation of a third country as a safe third country at Union level subject to the conditions as set out in Article 49.[26]

Article 47

The concept of safe country of origin[27]

1. A third country may be designated as a safe country of origin in accordance with this Regulation where, on the basis of the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is generally no persecution as defined in Article 9 of Regulation (EU) No XXX/XXX (Qualification Regulation)~~, no torture or inhuman or degrading treatment or punishment and no threat by reason of indiscriminate violence in situations of international or internal armed conflict~~ **and no real risk of serious harm as defined in Article 6 of Regulation (EU) No XXX/XXX (Qualification Regulation)**.

1a. The designation of a third country as a safe country of origin may be made with exceptions for specific parts of its territory or with exceptions for clearly identifiable categories of persons.[28]

[26] **RO:** these provisions are not justified since there is a distinct article(art. 49) regarding the suspension of the designation of a third country as a safe third country at Union level or its presence on the EU-wide list of safe countries of origin.

[27] **BE, SE:** scrutiny reservation.

[28] **DE:** scrutiny reservation on "*that there is generally no persecution*".

2. ~~The assessment of~~ **When assessing** whether a third country may be designated as a safe country of origin in accordance with this Regulation **account shall be taken of** ~~shall be based on~~ a range of **relevant and available** sources of information, including ~~in particular~~ information from Member States, the European Union Agency for Asylum, the European External Action Service, the United Nations High Commissioner for Refugees, ~~the Council of Europe as well as~~ **and** other relevant **intergovernmental or international** organisations, and shall take into account **where available** the common analysis of the country of origin information referred to in Article 10 of Regulation (EU) No XXX/XXX (EU Asylum Agency).[29]

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

   (a) the relevant laws and regulations of the country and the manner in which they are applied;[30]

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

---

[29] **DE, HR:** keep Art. 37(3) of APD, as far as the assessment is based on information from international organizations and not from organizations in general; therefore redraft as follows: "*as well as relevant international organisations*". **RO:** assess if at a minimum, the Member States, the European Union Agency for Safety and Health at Work, the European External Action Service, the United Nations High Commissioner for Refugees and the Council of Europe should be cumulatively considered as sources of information, before applying the safe third country concept in individual cases, according to Art. 45, par. 2, let. (c) of the Regulation, or, for example, the information provided by the Asylum Agency the European Union and the United Nations High Commissioner for Refugees are sufficient, if, hypothetically, the Member States, the European External Action Service and the Council of Europe do not have a formal position in this regard. **HU:** add in the end „*without prejudice to Member States' competence for deciding on individual applications*" (cf EUAA Regulation). **SE:** replace "*including*" with "*such as*".

[30] **CZ:** delete point (a) as it is covered by para (1).

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

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

4. **The concept of** ~~A third country designated as~~ a safe country of origin ~~in accordance with this Regulation~~ may~~, after an individual examination of the application, be considered as a safe country of origin for a particular applicant~~ only **be applied provided that** ~~where~~:[31]

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

(aa) an individual assessment of particular circumstances of the applicant has been carried out; ~~and~~[32]

(b) he or she has not submitted any serious grounds for considering the country not to be a safe country of origin in his or her particular circumstances**;**

(ba) the applicant does not come from a part of the third country for which an exception was made or where the applicant does not belong to a category of persons for which an exception was made.[33]

---

31 **CZ:** delete "*after an individual examination of the application*".

32 **AT:** delete "*and*".

33 **AT, SE:** delete point (c). **SE:** serious ground is too high of a requirement in the field of evidence. The burden must be the same regardless of if the applicant comes from a country designated as safe or not and the principle of the benefit of the doubt must apply. In general, it would be adivisable to go through all the proposals to perhaps remove, or at least to streamline, the requirements in the field of evidence.

Article 48

Designation of safe countries of origin at Union level[34]

1. Third countries listed in Annex 1[35] to this Regulation are designated as safe countries of origin at Union level, in accordance with the conditions laid down in Article 47.[36]

2. The Commission shall regularly review the situation in third countries that are on the EU common list of safe countries of origin, with the assistance of the **European** Union Agency for Asylum and based on the other sources of information referred to in Article 47~~5~~(2).[37]

3. ~~In accordance with Article 11(2) of Regulation (EU) No XXX/XXX (EU Asylum Agency Regulation), the Commission may request the~~ **The European** Union Agency for Asylum **shall, at the request of the Commission,** ~~to~~ provide it with information on specific third countries which could be considered for inclusion in the common EU list of safe countries of origin.[38] **The Commission may take into account a request from Member States to assess whether a third country could be included in the common EU list of safe countries of origin.**

---

34 **SE, SK:** scrutiny reservation. **SE:** an EU list is welcome in order to increase harmonisation, as long as the independence of the authorities and the courts to determine in individual cases can be fully upheld. This must be ensured throughout the proposal.

35 **AT, BE, FR, IE, MT:** scrutiny reservation on Annex I. **DE:** scrutiny reservation regarding Turkey as a safe country of origin in Annex 1; deciding whether to include Turkey in the list depends on further developments there and it should be done in close consultation with the European partners and EU institutions. **IE:** The reports of the Fundamental Rights Agency and EASO on the countries listed in the Annex were prepared more than a year ago. It would be important to update the reports for a current analysis of the situation in advance of Council adopting the proposal. Consideration could also be given to the inclusion of these countries in a Union list of safe third countries. Member States should have more input into the selection of the countries for inclusion on the list. The lists needs to be as broad as possible for the provisions to have a sustained impact. **IT:** the list in Annex I should include all TC relevant for MS, on the basis of a thorough application of Art. 48.

36 **AT:** add "*Member States may designate safe third countries in accordance with Art. 50 in national law*." **PRES:** this article refers to designation of STC at Union level therefore there is no need to make a reference to Art. 50.

37 **AT:** there are no rules regarding the establishment of the first list.

38 **CZ:** unclear why the drafting is different compared to Article 46 (2). **PRES:** as the text stands now, the difference stems from the fact that there is already a list for SCO while there is no such list yet for STC.

4. The Commission shall be empowered to adopt delegated acts to suspend the presence of a third country from the EU common list of safe countries of origin subject to the conditions as set out in Article 49.[39]

Article 49

Suspension and removal of the designation of a third country as a safe third country at Union level or from the EU common list of safe country of origin[40]

1. In case of ~~sudden~~ **significant** changes in the situation of a third country which is designated as a safe third country at Union level or which is on the EU common list of safe countries of origin, the Commission shall conduct a substantiated assessment of the fulfilment by that country of the conditions set in Article 45 or Article 47 and, if the Commission considers that those conditions are no longer met, it shall adopt a delegated act suspending the designation of a third country as a safe third country at Union level or suspending the presence of a third country from the EU common list of safe countries of origin for a period of six months.[41]

---

[39] **NL:** add a new para before para (4) drafted as follows: "*Member States may invite the Commission to assess whether a third country can be designated as a safe country of origin. The Commission shall take the invitation into consideration in deciding whether Annex 1 should be amended. The Commission shall inform the Member States within six months about its decision.*" **RO:** these provisions are not justified since there is a distinct article(art. 49) regarding the suspension of the designation of a third country as a safe third country at Union level or its presence on the EU-wide list of safe countries of origin.

[40] **SE:** scrutiny reservation. **CZ, SK:** the title should read "*Suspension and removal of a third country as a safe third country or a safe country of origin from the common list at Union level*". **PRES:** the drafting of the title reflects the fact that there is already a list for SCO while there is no such list yet for STC. **IE:** it is important that the procedure for suspension and removal from the EU list is completed as quickly as possible, both for the impact on national lists and to ensure that appeal bodies have the most up-to-date position available to them during the appeals process. **EL:** the procedure is too complicated; it should be simplified.

[41] **AT:** 6 months is too long; it should be as soon as possible but within 2 months with "*ex nunc*" effect. **CZ, SK:** redraft as follows: "*In case of sudden changes in the situation of a third country which is designated as a safe third country or safe country of origin at Union level ~~or which is on the EU common list of safe countries of origin~~, the Commission shall conduct a substantiated assessment of the fulfilment by that country of the conditions set in Article 45 or Article 47 ~~and~~,. ~~i~~If the Commission considers that those conditions are no longer met, it shall adopt a delegated act suspending the designation of a third country as a safe third country or safe country of origin from the common list at Union level ~~or suspending the presence of a third country from the EU common list of safe countries of origin~~ for a period of six months*."

2. The Commission shall continuously review the situation in that third country taking into account *inter alia* information provided by the Member States **and the European Agency for Asylum** regarding subsequent changes in the situation of that country.[42]

3. Where the Commission has adopted a delegated act in accordance with paragraph 1 suspending the designation of a third country as a safe third country at Union level or suspending the presence of a third country from the EU common list of safe countries of origin, it shall within three months after the date of adoption of that delegated act submit a proposal, in accordance with the ordinary legislative procedure, for amending this Regulation to remove that third country from the designation of safe third countries at Union level or from the EU common list of safe countries of origin.[43]

4. Where such a proposal is not submitted by the Commission within three months from the adoption of the delegated act as referred to in paragraph 2, the delegated act suspending the third country from its designation as a safe third country at Union level or suspending the presence of the third country from the EU common list of safe countries of origin shall cease to have effect. Where such a proposal is submitted by the Commission within three months, the Commission shall be empowered, on the basis of a substantial assessment, to extend the validity of that delegated act for a period of six months, with a possibility to renew this extension once.[44]

---

[42] **IT:** delete para (2) as it is redundant. **RO:** for reasons of legal symmetry, the review of the situation in the third countries concerned should also be carried out with the support of the European Union Asylum Agency and based on other sources of information referred to in Art. 45 (1), second subparagraph.

[43] **CZ:** redraft as follows: "*Where the Commission has adopted a delegated act on suspension in accordance with paragraph 1 ~~suspending the designation of a third country as a safe third country at Union level or suspending the presence of a third country from the EU common list of safe countries of origin~~, it shall within three six months after the date of adoption of that delegated act submit a proposal, in accordance with the ordinary legislative procedure, for amending this Regulation to remove that third country from the designation list of safe third countries or safe countries of origin at Union level ~~or from the EU common list of safe countries of origin~~*." **IT:** one month instead of three months. **RO:** although reference is made to the European Commission's proposal to amend "this Regulation" in order to remove the designation of a certain country as a safe third country at Union level, the regulation does not include such a designation at present.

[44] **CZ:** replace "*suspending the third country from its designation as a safe third country at Union level or suspending the presence of the third country from the EU common list of safe countries of origin*" with "*on suspension*". **EL:** "*substantiated assessment*". **IT:** one month instead of three months. **AT:** three months instead of six.

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

Article 50

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

1. ~~For a period of five years from entry into force of this Regulation,~~ Member States may retain or introduce legislation that allows for the national designation of safe third countries or safe countries of origin other than those designated at Union level or which are on the EU common list in Annex 1 for the purposes of examining applications for international protection.[45]

[45] **EL, ES, HR, IT:** the national lists should not be maintained by MS as this may lead to secondary movements and distortion of flows toward MS not having lists.The EU lists should include all the TCs relevant for MS. **RO:** in the context in which, according to Art. 62 (entry into force and application) this Regulation shall apply from [six months after the date of entry into force], it shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties, but Art. 50 (1) would appear to be in contradiction with it, as it would allow the maintenance of national legislative provisions by which third countries are designated as safe countries or safe countries of origin, without imposing an obligation on these countries to comply with the requirements of Art. 45 (1) and Art. 47.

2. Where a third country is suspended from being designated as a safe third country at Union level or the presence of a third country has been suspended from the EU common list in Annex 1 to this Regulation pursuant to Article 49(1), Member States shall not designate that country as a safe third country or a safe ~~third~~ country of origin at national level nor shall they apply the safe third country concept ~~on an *ad hoc* basis~~ in relation to a specific applicant.[46]

3. Where a third country is no longer designated as a safe third country at Union level or a third country has been removed from the EU common list in Annex~~e~~ I to the Regulation in accordance with the ordinary legislative procedure, a Member State may notify the Commission that it considers that, following changes in the situation of that country, it again fulfils the conditions set out in Article 45(1) and Article 47.[47]

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

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

---

[46] **CZ:** delete "*level or the presence of a third country has been suspended from the EU common list in Annex 1 to this Regulation pursuant to Article 49(1)*". **DE:** reservation; the restriction should be subject to a time limit. **PRES:** the duration of the suspension is clarified in Article 49 (3) and (4). **IT:** replace "*ad hoc*" with "*individual*". **NL:** in this case, it should still be possible to apply the concept of safe third countries on basis of Article 45(2)(c); therefore delete "*nor shall they apply the safe third country concept on an ad hoc basis in relation to a specific applicant*." **RO:** for terminological coherence with Art. 45 (2) (c) the term "*ad hoc*" could be replaced by "*in individual cases*". **SE:** delete "*nor shall they apply the safe third country concept on an ad hoc basis in relation to a specific applicant*." because this reference is contrary to the independence of the authorities and courts. Even if a country is suspended it may be relevant after an individual assessment due to the circumstances in that case.

[47] **AT:** 6 months is too long; it should be as soon as possible but within 2 months with "*ex nunc*" effect. **CZ:** add "*or safe country of origin*" in the first line after "*safe third country*"; delete "*or a third country has been removed from the EU common list in Annexe I to the Regulation in accordance with the ordinary legislative procedure*".

The notifying Member State may only designate that third country as a safe third country or as a safe country of origin at national level provided that the Commission does not object to that designation[48] **within three months from the date of notification by the Member State. That time-limit may be extended by three months where, due to a volatile situation in the third country, the Commission is not able to object to the designation within the first three-month time-limit.**

[48] **AT:** delete "*only*" and replace "*provided that*" with "*as long as*". **DE:** unclear how how suspending/removing a country from the common EU list will affect an existing designation at national level. Art. 50(2) and (3) only refer to the subsequent national designation. **IE:** scrutiny reservation on this subpara. **MT:** for this subpara the text that was already agreed upon at COREPER in relation to the Proposal for a list of safe countries of origin should be retained; therefore, add following to the current text: "*The Commission's right of objection shall be limited to a period of two years after the date of removal of that third country from the designation of safe third countries at Union level or from the EU common list of safe countries of origin. Any objection by the Commission shall be issued within a period of three months after the date of notification by the Member State and after due review of the situation in that third country, having regard to the conditions set out in Articles 45(1) and 47(1) and (3) of this Regulation. After the period of two years, the Member State shall consult with the Commission on the designation of that third country as a safe third country or as a safe country of origin at the national level. Where it considers that those conditions are fulfilled, the Commission may propose an amendment to this Regulation in order to designate that third country as a safe third country at Union level or add that third country to the EU common list of safe countries of origin.*" **NL:** the competence of the Commission to make an objection in the last subparagraph should not be unlimited; include the provisions of the Council position ofnthe SCO Regulation, to set a term of two years.

4. Member States shall notify the Commission and the European Union Agency for Asylum of the third countries that are designated as safe third countries or safe countries of origin at national level immediately after such designation. Member States shall inform the Commission and the Agency once a year of the other safe third countries to which the concept is applied ~~on an *ad hoc* basis~~ in relation to specific applicants.[49]

[49] **SK:** scrutiny reservation. **CZ:** unclear if this drafting means that MS have no obligation to notify current list, but only new countries added; delete "*Member States shall inform the Commission and the Agency once a year of the other safe third countries to which the concept is applied on an ad hoc basis in relation to specific applicants*" as it is too burdensome. **EL:** no support for the application of the safe third country concept on an ad hoc basis in relation to a specific applicant. This will open the door to a differentiated application of the concept. **RO:** in the light of para (1), both newly designated countries and the third countries already designated at national level should be notified on the date of entry into force of this Regulation; it would also be useful to mention a deadline by which Member States should inform the Commission and the European Union Agency for Asylum in relation to the countries to which they apply "ad hoc" (see also the comment under para(2)) the concepts in question (given that this would allow an EU-wide analysis to be carried out in the year in which the information is communicated in this case, and on the basis of this analysis, unitary practices could be stimulated / adopted). **SE:** delete the second sentence (see comment on Art. 44 (7)).

CHAPTER IV

PROCEDURES FOR THE WITHDRAWAL OF INTERNATIONAL PROTECTION[50]

Article 51

Withdrawal of international protection[51]

The determining authority shall start the examination to withdraw international protection from a **third-country national or stateless** ~~particular~~ person when new elements or findings arise indicating that there are reasons **as referred to in Articles 14 and 20 of Regulation (EU) No XXX/XXX (Qualification Regulation)** to reconsider the ~~validity~~ **need** of his or her international protection~~,~~**.**

The determining authority shall review the status of a beneficiary of international protection, in particular, as provided for ~~and in particular in those instances referred~~ to in Articles 15 and 21 of Regulation (EU) No XXX/XXX (Qualification Regulation)**.**

---

50 **DE:** scrutiny reservation.

51 **BE, SE:** scrutiny reservation. **EL:** what will happen if the person in question has already established or is close to establishing a right to stay based on other legal bases, e.g. long-term resident? Does the determining authority has a leeway to decide whether to withdraw his/her protection or not?

Article 52

Procedural rules <u>for withdrawal of international protection</u>[52]

1. Where the ~~competent~~ **determining** authority **<u>or a competent court or tribunal</u>** is considering withdrawing international protection from a third-country national or **a** stateless person, ~~including in the context of a regular status review referred to in Articles 15 and 21 of Regulation (EU) No XXX/XXX (Qualification Regulation),~~ the person concerned shall enjoy the following guarantees~~, in particular~~:[53]

   (a) he or she shall be informed in writing that ~~the competent authority is reconsidering~~ his or her qualification as a beneficiary of international protection **<u>is being reconsidered</u>** and the reasons for such ~~a~~ reconsideration; and

   <u>(aa) he or she shall be informed of the obligation to cooperate fully with the determining authority and other competent authorities, including as provided for in Article 14 (4) and Article 20 (2) of Regulation (EU) No XXX/XXX (Qualification Regulation), and of whether he or she shall be required to make a written statement or appear for a personal interview or a hearing as well as of the consequences of not cooperating with the determining authority and other competent authorities;</u>

---

[52] **DE:** scrutiny reservation. **SK:** it is necessary to include in Art. 52 appropriate procedural consequences for situations of non-cooperation of the beneficiary. The granting of the international protection is two-way process. Firstly there is an obligation for MS to grant the international protection to third country national who meets the criteria for such protection and on the other hand there has to be also the willingness of the person concerned to avail himself or herself of the protection of the MS. It means not only enjoy the rights and benefits but also perform one's obligations –such as cooperation with the competent authorities.

[53] **EL:** the responsibility to inform the person concerned starts when the determining authority reviews the international protection status? Or when it has decided to kick off the procedure of withdrawing it? what is the reason for the deletion in this para? **SE:** add "*at least*".

(b) he or she shall be given the opportunity to submit, within ~~reasonable time~~ **two weeks**, by means of a written statement ~~and,~~ **or** in a personal interview **or hearing at a date set by the determining authority or the competent court or tribunal, respectively**, reasons as to why his or her international protection should not be withdrawn.[54]

2. For the purposes of paragraph 1, **the determining authority or the competent court or tribunal** ~~Member States shall ensure that~~:

(a) ~~the competent authority is able to~~ **shall** obtain precise and up-to-date information from **relevant and available national, Union and international** ~~various~~ sources, ~~such as,~~ **and** where ~~appropriate,~~ **available, the common analysis on the situation in specific country of origin and the guidance notes referred to in Article 10 of Regulation No XXX/XXX [**~~from the~~ **Regulation on the** European Union Agency for Asylum**]** ~~and the United Nations High Commissioner for Refugees, as to the general situation prevailing in the countries of origin of the persons concerned~~;[55] and

---

[54] **SK:** reservation. **DE:** is this related to ECJ decisions? Redraft as follows: "*he or she shall be given the opportunity to submit, within reasonable time, by means of a written statement or in a personal interview, reasons as to why his or her international protection should not be withdrawn. As far as necessary to review the protection status, the person concerned shall be obliged, at the request of the competent authority, to appear for a personal interview and/or respond in writing within one month. Before the beneficiary of international protection is requested to appear for a personal interview and/or respond in writing, or together with such a request, he or she shall be sufficiently instructed as to his or her obligation to cooperate and the specific consequences of wilful failure to cooperate. If the person concerned does not comply with this request, he or she shall be informed in writing of the time limit of one month and the legal consequences of failure to comply. If no response is received within this time limit with an adequate excuse, the competent authority shall decide in accordance with national law on how to consider, and the effects of, the failure to cooperate*." **IE:** reservation on the need to provide for a personal interview; this would create an additional administrative burden. The written statement should suffice. The original text from the APD should be reinstated. **SE:** scrutiny reservation; even if an interview in most cases will be the best way to give the person opportunity to state why a status should not be withdrawn, and especially considering that the authority has the burden of proof, there may be exceptions. Perhaps it must not be stated as clearly how this should be done and just focus on the persons right to give reasons against a withdrawal.

[55] **IT:** keep reference to UNHCR. **SE:** use the same wording as in Article 33.

(b) ~~where information on an individual case is collected for the purposes of reconsidering international protection, it is~~ **shall** not obtain~~ed~~ **information** from the actors of persecution or serious harm in a manner that would result in such actors being directly informed of the fact that the person concerned is a beneficiary of international protection whose status is under reconsideration, or jeopardise the physical integrity of the person or his or her dependants, or the liberty and security of his or her family members still living in the country of origin.[56]

3. The decision ~~of the competent authority~~ to withdraw international protection shall be given in writing. The reasons in fact and in law shall be stated in the decision and information on the manner in which to challenge the decision shall be given in writing.[57]

4. Where the determining authority has taken the decision to withdraw international protection, the provisions of Article ~~8(3)~~**5b**, ~~and~~ Articles 15 to ~~18~~ **17 and Article 53 (4a)** shall apply.[58]

---

[56] **CZ:** add a new point (c) as follows: "*invite the person concerned for the personal interview, where necessary. Where he or she does not cooperate by not appearing for the personal interview without due justification, the absence of the personal interview shall not prevent the determining authority from taking a decision to withdraw international protection.*"
FR: delete "*information*" and "*directly*".

[57] **DE:** do the translation requirements pursuant to Art. 35 (1) apply here accordingly? **PRES:** Art 35 (10 would not apply here because it refers to decisions on applications for international protection. **IT:** information on the manner in which to challenge the decision should be included in the negative decision itself.

[58] **CZ, DE, EL:** scrutiny reservation. **RO:** cf position on Articles 5b, 15 and 17.

4a. Where the third country national or stateless person does not cooperate by not submitting a written statement or by not appearing for the personal interview or the hearing without due justification, the absence of the written statement or the personal interview or hearing shall not prevent the determining authority or the competent court or tribunal from taking a decision to withdraw international protection.[59]

5. ~~By way of derogation from paragraphs 1 to 4 of t~~**T**his Article **shall not apply**~~, Member States' international protection shall lapse~~ where the beneficiary of international protection has **explicitly** ~~unequivocally~~[60] renounced, **in writing**, his or her recognition as **beneficiary** ~~such. International protection shall also lapse where the beneficiary of international~~ **or where he or she** ~~protection~~ has become a national of the Member State that had granted international protection.[61]

---

[59] **SE:** scrutiny reservation. **BE:** a consequence should be foreseen in case of the non-response of the applicant while he or she was invited to submit a written statement. **CZ:** delete this point. **EL:** is there a possibility to request the postponement of the date of the personal interview? **RO:** clarify "*due justification*"; does it also covers the situation where the beneficiary to whom the review process is required is not on the teritory of the MS concerned, and the authorities are aware of this. If so, can the competent authority initiate the reassessment procedure for the beneficiary? If this procedure can not be started, what should be the measures adopted by the MS?

[60] **EL:** is this part of a separate administrative procedure? In practical terms it should take the form of withdrawal (decision to withdraw). **PRES:** one of the ways to assess this indeed might be return to the country of origin.

[61] **SK:** reservation; add reference to the beneficiary who has become a national of other Member State than the MS that had granted him/her international protection. **SE:** the paragraph is unclear. All grounds for revocation should be in the QR. **PRES:** this is not a ground for withdrawal as defined in the QR, but this provision merely provides for cases where this article does not apply. **CZ:** scrutiny reservation, previous text is preferrable. **DE:** why have only these grounds been included? **PRES:** for other grounds of withdrawal this article applies. **EL:** unclear what procedure should be followed if withdrawal is not applied.

CHAPTER V

APPEAL PROCEDURE[62]

Article 53

The right to an effective remedy[63]

1. Applicants have the right to an effective remedy before a court or tribunal ~~in accordance with the basic principles and guarantees provided for in Chapter II,~~ against the following:

   (a) a decision taken on their application for international protection ~~including a decision~~:

      (i) rejecting an application as inadmissible ~~referred to in Article 36(1)~~;[64]

      (ii) rejecting an application as unfounded or manifestly unfounded in relation to refugee status or subsidiary protection status ~~referred to in Article 37(2) and (3) or Article 42(4)~~;

      (iii) rejecting an application as ~~explicitly~~ **implicitly** withdrawn ~~or as abandoned referred to in Articles 38 and 39~~;

   ~~(iv) taken following a border procedure as referred to in Article 41~~.

---

62 **CZ, DE, EL, IE, SK:** scrutiny reservation. **DE:** how are these provisions related to the Dublin IV Regulation? are the following provisions, including precluding provisions, applicable if the Dublin Regulation does not provide for anything more specific? **EL:** is the second instance procedure only a written one? Is there a possibility to conduct a personal hearing when complex issues of fact and law so require? **SE, SK:** it is generally difficult to have detailed rules on the MS court systems. The independence of courts must be upheld. SE would therefore suggest that this chapter is held more general and without too many details.

63 **PL:** guarantees of an independent court or tribunal should be mentioned; can MS create an intermediate administrative instance between the determining authority and a court/tribunal?

64 **IT:** reservation in relation to Art. 36 (1a).

(b) a decision to withdraw international protection ~~pursuant to Article 52~~.[65]

2. Persons recognised as eligible for subsidiary protection have the right to an effective remedy against a decision considering ~~an~~ **the** application unfounded in relation to refugee status. **Without prejudice to paragraph 1(b), where subsidiary protection status granted by a Member State offers the same rights and benefits as refugee status under Union and national law, the appeal against that decision may be considered as inadmissible.**[66]

3. An effective remedy within the meaning of paragraph 1 shall provide for a full and *ex nunc* examination of both facts and points of law, **at least before a court or tribunal of first instance,** including, where applicable, an examination of the international protection needs pursuant to Regulation (EU) No XXX/XXX (Qualification Regulation).[67]

3a. The court or tribunal of first instance may exclude from the examination of the appeal any elements which the applicant could have already brought forward during the administrative procedure even though the applicant had been aware of those elements at the time of the administrative procedure, unless the applicant provides sufficient justification for not presenting those elements earlier at the time of the administrative procedure.

~~The applicant may only bring forward new elements which are relevant for the examination of his or her application and which he or she could not have been aware of at an earlier stage or which relate to changes to his or her situation.~~[68]

---

65 **DE:** another category of cases should be added, covering disputes between member states and beneficiaries of protection as to whether protection status pursuant to Art. 52 (5) of the Asylum Procedures Regulation has expired by law, i.e. not due to an administrative decision

66 **EL:** scrutiny reservation. **AT:** add "*according to Regulation (EU) No XXX/XXX (Qualification Regulation)*" after "*benefits*". **CZ:** add "*by the court or tribunal*" in the end. **DE:** does "*may*" refer to a legislative option for MS?

67 **CZ:** it should not mean that the court will have the power to grant international protection itself. **RO:** clarify "*including, where applicable, an examination of the international protection needs persuant to Regulation (EU) No XXX / XXX (Qualification Regulation)*", in the context of the preliminary references to the rulings of the European Court of Justice Justice in cases C-586/17 and C-652/16.

68 **AT, CZ, HU, SK:** keep this para.

4. ~~The courts or tribunals shall, through the determining authority, the applicant or otherwise, have access to the general information referred to in Article 33(2)(b) and (c)~~.

4a. Applicants shall be provided with the services of an interpreter for the purpose of a hearing before the competent court or tribunal of first instance, where appropriate communication cannot otherwise be ensured.[69]

5. **Where the court or tribunal considers as revelant documents which have not already been translated in accordance with Article 33 (4)** ~~Documents relevant for the examination of applications by~~ **the** courts or tribunals **shall ensure their translation unless the applicant agrees that the translation is not needed** ~~in the appeal procedure shall be translated where necessary, if they were not already translated in accordance with Article 33(4)~~.[70]

6. ~~Applicants shall lodge a~~**A**ppeals against any decision referred to in paragraph 1 **shall be lodged**:[71]

(a) ~~within one week in the case of a decision rejecting a subsequent application as inadmissible or manifestly unfounded~~;

---

69 **SE, SK:** scrutiny reservation. **AT:** delete this para. **CZ:** reservation. **EL:** "*Tribunal of first instance*" does not cover the Independent Appeals Committees which are quasi-jurisdictional organs composed of two administrative judges and one member. Reword as follows "*court or tribunal for the purposes of EU law*" (comment valid for paras (4), (4a) and (5) and for Article 54 and 55). **FR:** it should not be necessary to provide interpretation before the hearing (e.g. for the purpose of lodging the appeal), as the applicant already benefits from legal assistance and was assisted by an interpreter during the individual interview. Interpretation is only necessary during the hearing. Redraft as follows "*for the hearing before the competent court*" instead of "*for submitting their case*".

70 **BE:** reservation. **RO:** scrutiny reservation. **DE:** clarify that documents need not be translated if the applicants and parties involved agree. **SE:** delete this para. **CZ:** add reference to national law.

71 **SK:** reservation. **EL:** scrutiny reservation on the time-limits. **DE:** this delegation is in favour of time limits for lodging appeals and applications which correspond to those in national law: for appeals, in principle two weeks; time limits of one week for lodging appeals and applications in case of rejection as inadmissible or manifestly unfounded. **SE:** replace para (6) with the following text: "*Member States shall provide for reasonable time limits and other necessary rules for the applicant to exercise his or her right to an effective remedy. The time limits shall not render such exercise impossible or excessively difficult.*" **BE, FR:** deadlines should be in calendar days and could be shortened.

(b) within ~~two weeks~~ **8 working days** in the case of a decision rejecting an application as inadmissible**,** ~~or in the case of a decision rejecting an application~~ as ~~explicitly~~ **implicitly** withdrawn ~~or as abandoned~~, ~~or in the case of a decision rejecting an application as unfounded~~ or manifestly unfounded in relation to refugee or subsidiary protection status following an accelerated examination procedure or border procedure or while the applicant is held in detention;[72]

(c) within ~~one month~~ **20 working days** in the case of a decision rejecting an application as unfounded in relation to the refugee or subsidiary protection status ~~if the examination is not accelerated~~ or in the case of a decision withdrawing international protection.[73]

~~For the purposes of point (b),~~ Member States may provide for an *ex officio* review of decisions taken pursuant to a border procedure.[74]

The time-limits provided for in this paragraph shall start to run from the date when the decision of the determining authority is notified to the applicant ~~or from the moment the legal adviser or counsellor is appointed if the applicant has introduced a request for free legal assistance and representation~~.[75] **The procedure for notification shall be laid down in national law**.

---

72 **IT:** reservation in relation to Art. 36 (1a) (a) and (b).

73 **DE:** include a reference to decisions concerning applicants held in detention be added after "*if the examination is not accelerated*". Accelerated examinations are conducted in accelerated procedures and in border procedures. It does not seem to be a provision stating that applications from persons held in detention are accelerated. Perhaps (c) should be worded to include all other decisions rejecting applications and withdrawing international protection. May the MS include provisions in their national law to restore the previous status if applicants fail to appeal within the time limit through no fault of their own? Is there a separate time limit for statements of claim, apart from the time limit for appeals? May the MS address this in their national law? Which provision, (b) or (c), applies to cases which are rejected as manifestly unfounded following an examination procedure that was not accelerated? **CZ, HU, RO:** deadline too long.

74 **BE:** reservation on the *ex officio* reviewing procedure. **EL:** an *ex officio* review is not possible. **SE:** scrutiny reservation on the reference to a border procedure.

75 **DE:** reservation. **SE:** delete this para.

Article 54

Suspensive effect of appeal[76]

1. ~~The Member State responsible shall allow a~~**A**pplicants **shall have the right** to remain on **the** ~~its~~ territory **of the Member State responsible** until the time limit within which to exercise their right to an effective remedy **before a court or tribunal of first instance** has expired and, when such a right has been exercised within the time limit, pending the outcome of the remedy.[77]

---

[76] **DE, LT, IT, RO:** scrutiny reservation. **DE:** actions brought against decisions made in the framework of the APR must not have a suspensive effect in the case of all applications rejected as inadmissible, in the case of revocation/withdrawal for security reasons, or in the case of all applications rejected as manifestly unfounded. Whether a suspensive effect applies or not should depend not on the type of procedure (e.g. accelerated procedure), but on the content of the decision made (application obviously has no prospect of success); removals for the duration of the accelerated procedure in the framework of the APR should be suspended. **IT:** scrutiny reservation related to newly adopted legislation at national level. **EL:** the case-by-case examination of the right to remain should not be part of the asylum procedure but rather part of the return procedure. We risk overburdening the authorities dealing with second instance examination.

[77] **SE:** introduce "*at least*" before "*first instance*".

2. **Paragraph 1 shall not apply** ~~A court or tribunal shall have the power to rule whether or not the applicant may remain on the territory of the Member State responsible, either upon the applicant's request or acting *ex officio*, where the applicant's right to remain in the Member State is terminated as a consequence of~~ **in the case** ~~any~~ of the following ~~categories of~~ decisions **by the determining authority**:[78]

[78] **DE:** redraft this para as follows: "*The applicant's right to remain on the territory of the Member State in accordance with paragraph 1 shall be excluded: a) in cases where the application is rejected as inadmissible or as manifestly unfounded, b) in cases where international protection is withdrawn pursuant to Article 52 for the following reasons: (i) Article 14 paragraph 1 letter b) in conjunction with Article 12 paragraph 2 of the [Qualification Regulation], (ii) Article 14 paragraph 1 letters d) to f) of the [Qualification Regulation], (iii) Article 20 paragraph 1 letter b) in conjunction with Article 18 paragraph 1 of the [Qualification Regulation] or (iv) Article 20 paragraph 1 letter d) of the [Qualification Regulation]. In cases under sentence 1, a court or tribunal shall have the power to rule whether or not the applicant may remain on the territory of the Member State responsible, either upon the applicant's request or acting ex officio.*" **EL:** scrutiny reservation, this provision makes the effectiveness of the remedy in the cases (a) to (c) conditional upon the decision of the court or tribunal; which criteria should the court or tribunal use to decide upon the suspensive effect of appeal in all these case? These criteria should to be mentioned here. In the case of an asylum administrative procedure with two instances, first and second degree, does this refer to the second degree (quasi-jurisdictional)?The right to an effective remedy clearly encompasses the suspensive effect of the appeal (second instance). Therefore, if the second instance has the power to rule whether or not the applicant may stay, this power may run contrary to the notion of effective remedy. **PRES:** the rules set out in paras (1), (2), (3) and (4) of this Article concern appeals before a court of tribunal of first instance, as it is now clarified in para (1). Para (5) deals with appeals before a court or tribunal of higher level. **COM:** there is case-law of the ECJ and of the ECtHR on circumstances where suspensive effect of appeal is needed (see in particular ECJ, C-239/14).

(a) a decision which considers an application to be manifestly unfounded or, **in the cases subject to an accelerated examination procedure or border procedure**, rejects the application as unfounded in relation to refugee or subsidiary protection status ~~in the cases subject to an accelerated examination procedure or border procedure~~;[79]

(b) a decision which rejects an application as inadmissible pursuant to Article 36(1**a**)(a) and (c);

(c) a decision which rejects an application as ~~explicitly~~ **implicitly** withdrawn ~~or abandoned in accordance with Article 38 or Article 39, respectively.~~**;**[80]

(ca) a decision to withdraw international protection because the person concerned should have been excluded from being eligible for international protection or because the determining authority decided not to grant international protection for security reasons in accordance with the Qualification Regulation.

2a. In the case of the decisions referred to in paragraph 2, a court or tribunal shall have the power to rule whether or not the applicant may remain on the territory of the Member State responsible pending the outcome of the remedy upon the applicant's request . The competent court or tribunal may under national law have the power to decide on this matter *ex officio.* The competent court or tribunal shall rule on the applicant's right to remain following an examination of both facts and law.[81]

---

79 **SE:** delete "*in the cases subject to an accelerated examination procedure or border procedure.*"

80 **DE:** scrutiny reservation on the categories in (a) - (c). **SE:** scrutiny reservation on point (c).

81 **SK:** reservation. **BE:** reservation on the *ex officio* reviewing procedure. **DE:** must the request be made within a specific time limit? Does Art. 53 (6) apply here? It must be clarified whether a statutory order by the authority is needed for the immediate enforcement or whether the suspensive effect is omitted ipso iure.

3. **For the purpose of the procedure referred to in paragraph 2a**, **the following conditions shall apply**:[82] ~~A court or tribunal shall have the power to rule whether or not the applicant may remain on the territory of the Member State responsible provided that~~:

(a) the applicant **shall have** ~~has the necessary interpretation, legal assistance and~~ ~~sufficient time~~ **at least 5 working days** to prepare the request and submit to the court or tribunal the arguments in favour of granting him or her the right to remain on the territory pending the outcome of the remedy**;** ~~and~~

(aa) the applicant shall be provided with the services of an interpreter for the purpose of a hearing before the competent court or tribunal, where appropriate communication cannot otherwise be ensured;

(ab) the applicant shall be provided with free legal assistance and representation, where the applicant cannot afford the costs involved;

(b) ~~in the framework of the examination of a request to remain on the territory of the Member State responsible, the court or tribunal examines the decision refusing to grant international protection in terms of fact and law~~.

~~4. Member States shall allow~~ **(ba)** the applicant **shall have the right** to remain on ~~their~~ **the** territory **of the Member State responsible:**

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

---

82 **CZ:** delete para (3).

(ii) **where the applicant has requested to be allowed to remain within the set time limit,** pending the ~~outcome of the procedure to rule~~ **decision of the court or tribunal** on whether or not the applicant may remain on the territory. ~~That decision shall be taken within one month from the lodging of the appeal.~~[83]

5. **Where national law provides for the possibility of a** ~~An applicant who lodges a~~ further appeal against a first or subsequent appeal**, an applicant who lodges an appeal from a** decision of a court or tribunal ~~of first instance~~ shall not have a right to remain on the territory of the Member State unless a court or tribunal decides otherwise upon the applicant's request or acting *ex officio* **in accordance with national law**. ~~That decision shall be taken within one month from the lodging of that further appeal.~~[84]

---

[83] **SE:** scrutiny reservation on the sub-para. **NL:** for a *mala fide* applicant it would be easy to obstruct a return decision if he or she could remain in the MS every time he or she would start a procedure pursuant to this paragraph. This delegation considers that, in conformity with the APD, it should only be possible to remain in the MS during the first procedure according to this paragraph. This would also prevent the situation where an applicant, who already has had a negative decision pursuant to this paragraph in appeal, should start a new procedure in higher appeal. Hence, redraft as follows: "*(4) Member States shall allow the applicant to remain on their territory pending the outcome of the first procedure to rule on whether or not the applicant may remain on the territory. That decision shall be taken within one month from the lodging of the appeal.*". **PRES:** paras (2), (3) and (4) deal with first instance appeals; para (5) deal with appeals before a court or tribunal of higher level. **AT:** add a new sub-para as follows: "*National law may provide a time limit for the court or tribunal of first instance to decide on the request of the applicant to be allowed to remain on the territory or to decide ex officio according to paragraph 2a. After the expiration of this time limit, the applicant has no right to remain on the territory of the Member State, irrespective of whether or not the court or tribunal has actually taken a decision.*" **CZ:** add "*on condtition the request has been submitted together with the appeal"* after "*on the territory*". **DE:** reservation on the deletion; replace with the following: "*That decision should regularly be taken within one month from the lodging of the appeal.*"

[84] **EL, IT, SK:** scrutiny reservation. **AT, SK:** add a new para as follows: "*Despite the common provisions set out in this regulation, the appeal procedure is conducted according to national law.*" **AT:** delete reference to *ex officio*. **DE:** scrutiny reservation; it should be left up to the MS whether the appeal against the court's decision by law grants a right to remain or whether a court decision is required. Is it correct to assume that para (5) does not require a further appeal under national law against the court's decision in interim legal protection? Germany does not provide for any further appeal against the court's decision, which the decisions of the ECJ have allowed in principle (ECJ judgment of 28 July 2011, C-69/10, Samba Diouf). **CZ, SE, SK:** delete this para. **BE:** the deadline of 45 working days is extremely long; delete the end of the paragraph from the word "*unless a court or (...)*".

5a. This Article shall not apply where the applicant's right to remain has been terminated before a decision is taken by the determining authority, in accordance with Article 9(3).[85]

Article 55

Duration of the first level of appeal[86]

1. ~~Without prejudice to an adequate and complete examination of an appeal, t~~**T**he courts or tribunals **of first instance** shall ~~decide on the first level of appeal within the~~ **endeavour to take a decision within the** following time-limits from when the appeal is lodged:[87]

(-a) within 20 working days in the case of all decisions taken pursuant to a border procedure;

~~(a) within six months in the case of a decision rejecting the application as unfounded in relation to refugee or subsidiary protection status if the examination is not accelerated or in the case of a decision withdrawing international protection;~~

---

85 **DE, EL, SE:** scrutiny reservation.

86 **FR, IT, LT, RO, SK:** scrutiny reservation. **CZ, DE, EL, ES, HR, IE, SK:** reservation; it is not appropriate to place a time limit on the appeals process. This would contravene the principle of judicial independence and the separation of powers between the State and the Judiciary, which is enshrined in the Constitution. Furthermore, the text does not set out what happens when these time limits are not adhered to. Is there a penalty/sanction? The APD included a "may" provision in Article 46(10) to provide an optional possibility to set a time limit. This was appropriate and proportionate given that the judicial systems vary considerably across Member States. **IT:** different time-limits may lead to confusion and in any case enter the delicate ground of judicial function. This delegation suggests an average time-limit which seems reasonable, namely four months, as is shorter than letter (a) (with the advantage of quicker decisions) and contains the other two time-limits in (b) and (c). **HU, SE, SK:** delete this article it should be left to the MS to decide on detailed rules for the court systems. **BE:** deadlines too long.

87 **DE, HU:** scrutiny reservation on the time-limits; what are the legal consequences of failing to comply with the time limits? **EL:** keep deleted part.

(b) within ~~two months~~ **45 working days** in the case of a decision rejecting an application as inadmissible**,** ~~or in the case of a decision rejecting an application~~ as ~~explicitly~~ **implicitly** withdrawn ~~or as abandoned or~~ ~~as unfounded~~ or manifestly unfounded in relation to refugee or subsidiary protection status following an accelerated examination procedure or a border procedure or while the applicant is held in detention;[88]

~~(c) within one month in the case of a decision rejecting a subsequent application as inadmissible or manifestly unfounded~~ **within 120 working days in the case of a decision rejecting the application as unfounded in relation to refugee or subsidiary protection status or in the case of a decision withdrawing international protection**.

2. In cases involving complex issues of fact or law, the time-limits set out in paragraph 1 may be prolonged by an additional three month-period.[89] **That time limit may only be further extended where exceptional circumstances make it impossible for the court or tribunal of first instance to decide on the appeal.**

2a. In the case of an appeal against a decision taken in a border procedure, where a decision on the appeal is not taken within 20 working days referred to in paragraph 1(-a) from when the appeal is lodged, the applicant shall no longer be kept at the border or transit zones and shall be granted entry to the territory of the Member State.[90]

2b. The time-limits set out in paragraph 1 may be suspended where:

(i) the court or tribunal submits a request for a preliminary ruling to the Court of Justice of the European Union or refers the matter to another national court;

(ii) the applicant is unfit or unable to participate in the procedure before the court or tribunal due to circumstances beyond his or her control.

---

88 **SK:** deadline too short.

89 **AT:** replace "*involving*" with "*the courts or tribunals consider the case to include*"; add a new para as follows: "*Sanctions and consequences for the delay of a decision can be stipulated in national law/are subject to national legislation.*" **EL:** add "*or longer if necessary*". **IT:** two months instead of three.

90 **AT:** delete this para.

CHAPTER VI

FINAL PROVISIONS

Article 56

Challenge by public authorities

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

Article 57

Cooperation[91]

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

2. Member States shall, in liaison with the Commission, take all appropriate measures to establish direct cooperation and an exchange of information between the responsible authorities.

3. When resorting to the measures referred to in Article ~~27~~**26**(3), Article 28(3) and Article 34**(1)** and (3), Member States shall inform the Commission and the European Union Agency for Asylum as soon as the reasons for applying those exceptional measures have ceased to exist and at least on an annual basis. That information shall, where possible, include data on the percentage of the applications for which derogations were applied to the total number of applications processed during that period.[92]

---

[91] **DE:** what is meant by cooperation and exchange? does this also involve data exchange? **PRES:** cooperation duty is not new as it also exists in APD, so the content in this regard has not changed. In any case this does not include exchange of data as the reference is to information.

[92] **SK:** scrutiny reservation.

Article 58

Committee Procedure[93]

1. The Commission shall be assisted by the committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.[94]

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

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

Article 59

Delegated acts[95]

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

---

[93] **AT:** scrutiny reservation. **NL** (supported by **IE**)**:** Committee Procedure would not be proportional. EUAA could set operational standards and guidelines. In that line, delete Article 58. **PRES:** as the text currently stands, this procedure is needed for the implementing acts. **MT:** no support for introduction of implementing acts, delete this Article together with all references to implementing acts throughout the Proposal. Prefers that a text similar to that which has been agreed to in the Qualifications Proposal is adopted. The use of implemented acts in Article 19.4, Article 26.2, Article 29.5 can be replaced either by EUAA templates, that are non-binding in nature, or a template included as an Annex to the Proposal.

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

[95] **DE:** according to Article 290 (2) (b) TFEU, the delegated act can only enter into force, if the EP or the Council do not object within the given time-limit. **PRES:** this is dealt with in para (5).

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

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

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

5. Such a delegated act and its extensions shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of one month from notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object.[96]

[96] **FR:** this delegation strongly opposes the suggestion of the EP to resort to emergency procedures in case of sudden changes in a country that is on the lists of safe countries of origin: in our view, the one-month time-limit is already very short, which makes it a balanced compromise between the need to act quickly and the need to respect the powers of the co-legislators.

Article 60

Monitoring and evaluation[97]

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

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

Article 61

Repeal

Directive 2013/32/EU is repealed.

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

---

[97] **SE:** add the following: "*By [18 months after entry into force], the Commission shall review the application of the lists of safe countries*."

Article 62

Entry into force and application[98]

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

This Regulation shall start to apply from [~~six months~~ **two years** from its entry into force].[99]

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

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

---

[98] **RO:** scrutiny reservation.

[99] **DE:** scrutiny reservation. **DE, IE, MT, NL:** transitional periods should be provided for.